

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Crl. Misc. No.M-12305 of 2016
Date of decision : 25.05.2016**

Hardeep @ Hunny

.....Petitioner(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. J.S. Mehndiratta, Advocate
for the petitioner.

Ms. Mahima Yashpal, AAG, Haryana.

Mr. S.S. Momi, Advocate for the complainant.

ANITA CHAUDHRY, J.

The petitioner is seeking regular bail in FIR No.452 dated 05.09.2015, registered under Section 306/34 IPC, Police Station Sadar Sonipat, District Sonipat.

The petitioner and the deceased were neighbours. Deepika (deceased) had gone on a school trip along with some children of a Delhi School. The petitioner, a resident of the same village separately reached the spot and clicked some pictures. Deepika returned and told her family about the cheap acts committed by the petitioner. Deepika's mother went and complained to the petitioner's family. The petitioner's mother abused

Deepika. The petitioner's mother then went to the school and insulted the girl. The petitioner's father agreed to hand over the pictures taken by the petitioner but those were not returned. The allegations in the complaint are that on account of this reason at 5 O'clock the girl committed suicide as she was fed up with the allegations levelled regarding her character.

A suicide note (Annexure P-3) was also handed over by the complainant which refers to the insult she had faced at the hands of the petitioner's mother and her reputation tarnished in the entire village. Allegations were also levelled that the boy used to blackmail her and she was left with no option but to die.

The counsel for the petitioner contends that the petitioner is in custody since 15.09.2015 and challan was presented in October, 2015 and charge was framed last year and till now the complainant has not stepped into the witness box. It was urged that the petitioner's mother had been allowed bail by Additional Sessions Judge in December, 2015. It was contended that the trial will take long and the essential ingredients of abetment were not made out. It was urged that the girl had left another note with the petitioner saying that her parents had forced her to write something and both the writings were available on record and it can be seen that they are in the same hand.

The bail petition has been opposed by the complainant as well the State. The complainant's counsel has urged that the bail application of the petitioner had been rejected as the prosecution feared that he would abscond and may influence the prosecution witnesses and the case is fixed for 7th June, 2016 and bail should not be allowed.

A perusal of the record shows that the case was earlier fixed for 11.05.2016. On that day, the counsel for the complainant had stated that the complainant would appear before the Court on 13.05.2016 as that was the date fixed for prosecution evidence. The zimni order today placed on record shows that it was not fixed for prosecution evidence instead it was fixed for arguments on the two applications filed by the complainant/prosecution, one for production of the call detail record and other for amendment in the charge. Though, the order does refer to the presence of the complainant in the Court but the zimni order reads that the case was not fixed for evidence and therefore, the witness was bound down for 07.06.2016.

The previous zimni orders also show that the case was not fixed for prosecution evidence. In fact, it was fixed for arguments on the two applications moved by the prosecution/complainant.

The State counsel had also informed that two witnesses i.e. the Incharge and Principal of the school had been examined and they had not supported the prosecution story. The suicide note had been sent to the FSL. The report has not been received. The mobile phone was recovered and no objectionable pictures were found. Admittedly, the police did not place any photograph along with the challan. Without commenting upon the merits of the case, the petition is allowed and the petitioner is directed to be released on regular bail on execution of adequate personal and surety bonds to the satisfaction of trial Court/Duty Magistrate.

25.05.2016
sunil

(ANITA CHAUDHRY)
JUDGE