

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

CRM-M No. 1656 of 2017(O&M)

Date of Decision: 09.02.2017

Ravi @ Banty and anotherPetitioners

VERSUS

State of Punjab and anotherRespondents

CORAM: **HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. K.S. Sidhu, Advocate for the petitioners.

Mr. Ankur Jain, AAG, Punjab.

Mr. Amandeep Chhabra, Advocate for respondent No.2.

REKHA MITTAL, J.

The petitioners pray for grant of bail in anticipation of arrest as they have been summoned to face trial in a private complaint titled Jagdish Chand Vs. Ravi and others for offence punishable under Section 302, 304-B read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC').

The present occurrence pertains to death of Opasana daughter of Jagdish Chand- complainant. Opasana (since deceased) was married to Ravi @ Banty on 19.09.2010 and died due to hanging at her matrimonial home on 29.04.2016. As per the allegations set up in the complaint, Opasana was being harassed, physically tortured due to demand of money raised by the husband, father-in-law etc.

Counsel for the petitioners has submitted that as the petitioners have been summoned in a private complaint, their custodial

interrogation is not required when otherwise they are ready to face the proceedings, in accordance with law. It is further argued that sister of Opasana namely Sushma was married to Gaurav, brother of Ravi (petitioner herein). Marriage of Opasana and Sushma with Ravi and Gaurav was performed on the same day. Sushma is leading a happy married life with Gaurav despite the fact that she is staying in the joint family. It is further submitted that the very fact that Sushma never complained of any demand of dowry or she being victimized for non-fulfillment of the said demand creates a serious doubt in the story propounded by the complainant more particularly in the circumstances that on the day of occurrence, proceedings under Section 174 Cr.P.C. were conducted and Jagdish Chand- complainant in his statement recorded on 30.04.2016 (Annexure P-3) had categorically stated that “one male child born to my daughter Sushma about 1½ years ago and till date no child born to my daughter Opasana due to which my daughter Opasana was mentally depressed. Yesterday on 29.4.2016 my daughter Sushma telephonically called me and told that Opasana hanged herself with hook of ceiling fan with help of chunni and due to which she has died.” In addition, it is further submitted that as per the post-mortem examination of the deceased, no injury was found on her person and cause of death is hanging ante-mortem in nature and sufficient to cause death in the ordinary course of nature.

Counsel for the respondent/complainant has strongly opposed the prayer for bail with the submission that grave and serious allegations have been leveled against the petitioners, therefore, they are not entitled to concession of pre-arrest bail. It is argued that nine persons have been residing in the same house (matrimonial home of Opasana) but the

complainant has not levelled any allegation against other six as he has levelled allegations only against the husband, father in law and brother-in-law (Jeth) of Opasana. According to counsel, if the petitioners are released on bail, there is likelihood of their putting pressure upon the complainant and tampering with evidence.

I have heard counsel for the parties, perused the paper-book and a copy of the post-mortem report Ex.CW4/A made available during the course of hearing.

The complainant at the first available opportunity made a statement on 30.04.2016 at 2:17 PM exonerating members of the matrimonial family of Opasana in view of statement, a part whereof is extracted hereinbefore. The first application complaining against misconduct of the accused was filed by father of the deceased after about 13 days of the occurrence. The criminal proceedings before the Court were initiated still later. Counsel for the complainant has nothing to say with regard to Sushma, younger sister of Opasana married with younger brother of Ravi, leading a happy married life. As has been rightly argued by counsel for the petitioners, custodial interrogation of the petitioners is not required as they have been summoned in a private complaint. At present, there are two versions given by the complainant, one exonerating the accused being the first version and the other indicting them for the crime.

Taking into consideration cumulative view of the facts and circumstances discussed hereinbefore, the petitioners can be allowed benefit of bail in anticipation of arrest in pursuance of process issued by the Illaqa Magistrate and ordered accordingly.

For the foregoing reasons, the petition is allowed. The petitioners shall be released on bail subject to the satisfaction of the summoning Court, on their appearance before the said Court within 10 days from the date of receipt of certified copy of the order. However, they shall abide by the following conditions:-

- (i) they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (ii) they shall not leave India without the previous permission of the Court;

Nothing stated in this order shall be construed as an expression of opinion on merits of the controversy.

FEBRUARY 9, 2016

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no