

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

CRM-M-18937 of 2017

Date of Decision: 09 October, 2017

Sandeep Kumar and another

...Petitioners

Versus

State of UT Chandigarh

...Respondent

CRM-M-18774 of 2017

Switter Singh

...Petitioner

Versus

State of UT Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Ms. Sumanjit Kaur, Advocate
for the petitioners.

Ms. Ashima Mor, APP U.T. Chandigarh.

Mr. Avnish Mittal, Advocate
for the complainant.

FATEH DEEP SINGH, J.

Since both these bail applications by the petitioners have come about under the provisions of Section 438 Cr.P.C seeking anticipatory bail in the same very case bearing FIR No.68 dated 29.04.2016 under Sections 306/34 IPC, Police Station, North Sector-3, Chandigarh, therefore, are being taken up and disposed off together.

The facts that need consideration are that a wireless message was received in the Police control room regarding an incident that has taken place within Mini Secretariat, Punjab, Sector 9, Chandigarh on

29.04.2016 around 7.20 hours when in the Police Post ASI Bahadur Singh was deputed it was informed that a person namely Pawan Kumar (now deceased) was got admitted in PGIMER where he was declared dead. On the personal search of the dead body purse with crumpled piece of paper was recovered, wherein, the deceased has spelled out the reasons for taking such a drastic step. It was alleged in the suicide note that the present petitioners had lend Rs.10,00,000/- to the deceased about one year and 10 months ago out of which they have received Rs.7,00,000/- but instead they demanded Rs.20,00,000/- and, thus, threatened the deceased with dire consequences and threatened over it by this incitement the deceased was compelled to take this step and even prior thereto, one of the accused Sandeep Kumar had taken Rs.30,00,000/- to sell him a house but, thereafter, refused to get the sale deed registered leading to this death.

The contentions of the learned counsel for the petitioners that the bare perusal of the suicide note, nowhere implicates any of the petitioners and that the name of petitioner/Switter Singh is not mentioned and only mobile number is mentioned and that nothing is to be recovered from them and that none of the ingredients of Section 306 IPC was made out and placed reliance on *Ram Sarup vs. Ravi and others 2012 (5) RCR (Criminal) 594* and *S.S. Chheena vs. Vijay Kumar Nahajan and another 2010(4) RCR (Criminal) 66* .

The bail applications are stoutly opposed by the State counsel assisted by learned counsel for the complainant on the grounds that the very suicide note written by the deceased is sufficient enough to attribute role to the petitioners that how they have pushed the deceased to

take this step of committing suicide and, thus, in view of the heinousness of offence and seriousness of the allegations they are not entitled to any relief.

Appreciating the submissions, the word instigation means to goad, urge, forward provocation, inciting or encouraging to it to do an act and it is not necessary that actual word must have used to that effect and it is sufficient enough that there was positive act on the part of the accused to instigate the deceased to commit suicide. To the mind of this Court, there has been involvement of each of the petitioners by creating mental stress intentionally to extract money from him and, thus, forcing him to commit suicide. Thus, the custodial interrogation of the petitioners is very much essential. More so, the provisions of Section 438 Cr.P.C are to be sparingly used no ground to allow the applications are made out.

Dismissed.

(FATEH DEEP SINGH)
JUDGE

09 October, 2017

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No