

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

CRM-M No. 35607 of 2016(O&M)

Date of decision: 1.3.2017

Pankaj

....Petitioner

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Karan Singh, Advocate for the petitioner.

Ms. Dimple Jain, AAG Haryana.

REKHA MITTAL, J.(Oral)

The petitioner prays for grant of regular bail in FIR No.381 dated 28.09.2015 registered with Police Station Farakpur, District Yamuna Nagar for offence punishable under Section 306 of the Indian Penal Code, 1860 (in short 'IPC').

The allegations against the petitioner are that 2-3 days earlier, complainant came to know that one boy namely Gollu who resides in Gurudwara gali and is a Conductor on the bus of New Happy School used to tease her daughter Ritesh and was warned by his son Prashant not to involve in such activity. On 27.09.2016, Gollu came to their house, abused Ritesh and caused tension to her. Feeling fed up, Ritesh committed suicide by hanging.

Counsel for the petitioner has submitted that the petitioner is in custody since September 2015. On completion of investigation, challan has been presented in the Court and conclusion of trial is likely to take its own time. It is further submitted that charge was framed on 22.12.2015

and thereafter the case was adjourned on several occasions for evidence of the prosecution but the material witnesses have not been examined. It is further submitted that the material witnesses Krishan Kumar, Parshant and Rojy appeared before the trial Court on 27.01.2017. They were bound down for 21.02.2017 but failed to cause appearance on that date with an intent to prolong disposal of the bail application. It is further submitted that even in view of the allegations raised in the FIR, it is a moot point to be determined during trial if the petitioner can be indicted for abetting suicide by Ritesh.

Counsel for the State has opposed the prayer for bail with the submission that as material witnesses are yet to be examined and the next date fixed before the trial Court is 09.03.2017, the petitioner does not deserve to be released on bail.

I have heard counsel for the parties and perused the paper-book.

On 01.02.2017, order passed by this Court reads as follows:-

“Counsel for the State has submitted that the material witnesses in the case namely Prashant Kumar, Krishan Kumar and Rozy were present before the trial Court on 27.01.2017 but they were not examined as counsel for the complainant was not present on that day.

The trial Court is directed to ensure that the witnesses present in the Court on the next date of hearing i.e. 21.02.2017 must be examined.

Adjourned to 01.03.2017.”

There is no explanation by the State as to why directions issued by this Court for ensuring presence of Parshant, Krishan Kumar and Rojy were not complied with. The witnesses failed to appear in the Court despite being bound down. Taking into consideration the period of custody coupled with the factum that conclusion of trial is likely to take

some time along with the fact that there is no allegation that the petitioner is likely to flee from the process of justice, in case enlarged on bail, without commenting upon merits of the case, the petitioner shall be released on bail subject to furnishing bail bonds to the satisfaction of the trial Court. However, he shall abide by the following conditions:-

(i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him/her from disclosing such facts to the Court;

(ii) he shall not leave India without previous permission of the Court.

MARCH 1, 2017

‘D. Gulati’

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned :

yes/no

Whether reportable :

yes/no