

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

CRM-M-23853-2016

Date of decision:-11.7.2018

Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.J.S. Bedi, Senior Advocate with
Mr.Sunil Chahal, Advocate
for the petitioner.

Mr.Neeraj Poswal, AAG, Haryana.

Mr.Atul Lakhanpal, Senior Advocate with
Mr.Arjun Lakhanpal, Advocate
for the complainant.

H.S. MADAAN, J.

This petition for regular bail has been filed by petitioner –
Amit Kumar – an accused in FIR No.269 dated 2.5.2016, under Sections
306/34 IPC, registered at Police Station Surajkund, District Faridabad.

Briefly stated, the facts of the case as per prosecution story
are that FIR in question was recorded on the basis of statement of
complainant Ravi Tiwari son of Sh.Nirmal Kumar Tiwari, resident of
House No.1771-D, Sudama Nagar, Indore, then at Flat N.509,
Sandhbhawna Apartment, Sector-46, Faridabad, which he made to the
police on 2.5.2016. *Inter alia*, in the statement, the complainant had
contended that he has retired from BSNL as Chief Telecom Supervisor

and was having two children, elder being a daughter, namely, Pooja and younger is a son, namely, Saurabh; that Pooja was working with Zee Digital T.V. as a Reporter at Delhi, Faridabad, Noida since last five years; that some time back, she was working in Zee Digital News Channel on App. DNA Web Portal and in that series, she had done a sting operation MTP & Female Foetus; however, after that series of Sting operation Dr.Anil Goyal lodged an FIR No.116/16, under Sections 420, 384, 500 IPC and 72 of IT Act against Pooja Tiwari and Anuj Mishra with Police Station Central Faridabad; that Zee News Channel had formed a Departmental Investigation Committee and withheld the salary of Pooja, resultantly, Pooja used to remain tense and nervous and would tell her parents about those things over phone besides informing them personally when she came to Indore stating that she was innocent and under a well planned conspiracy, Dr.Anil Goyal had lodged a false FIR against her and that her sting operation was absolutely true and impartial, further that the police administration after thoroughly investigating the matter should have lodged the FIR. According to the complainant, due to pressure and tension, Pooja had ended her life and legal action in the matter be taken.

However, earlier Amreen Khan daughter of Nazir Khan of Meo community, resident of House No.4, Supair Palace, Khazrana, District Indore, M.P., then at Flat No.509, Sadhbhawna Apartment, Sector-46, Faridabad, aged about 26 years had made a statement to the police stating that she had done B.A. in Journalism and had worked as Local Correspondent in Indore for seven years; that on 22.4.2016, she had gone to her friend Pooja Tiwari, who herself was a Journalist, in search of

a new job; that she used to chat with Pooja over phone and Facebook and Pooja told her to come to her place and she might get a good job there; that on 1.5.2016, they stayed in the flat for the whole day and in the evening they purchased vegetables from the market for cooking food; that Pooja had conducted a sting operation regarding abortion and some persons relating to that sting operation had lodged an FIR against her at Faridabad, as a result of which, Zee News Channel had also constituted an investigation committee against her and had suspended her and had withheld her salary, as a result of which, she used to remain tense and would talk about her harassment regarding the incident and she would consume liquor; that on 1.5.2016 in the evening at around 8:00 p.m., Pooja had taken two drinks and thereafter she ate something and kept on roaming here and there; that in the night at around 11:00 p.m., Amreen Khan along with Pooja had their dinner, thereafter, Pooja took one or two drinks and at about 11:30 p.m. when both of them were sitting on a Sofa in the lobby, then Amit, who is having family relations with Pooja came and then they all started discussing the FIR which was registered against Pooja. According to Amreen Khan, after some time she went to her room and had barely bolted the door, in the meantime Amit knocked at the door and said that Pooja had jumped from the balcony and she should come outside quickly; that thereafter Amreen Khan and Amit went downstairs and saw that dead body of Pooja was lying in a pool of blood; that they took her to Asian Hospital, where the doctor declared her dead; that there was no fault of any person and if Pooja had not consumed liquor, the incident would not have happened and she was under depression.

In view of statement of Amreen Khan observing that no offence was made out, a report was entered in the Daily Diary register at Police Station Surajkund, Faridabad. Thereafter, father of deceased Pooja Tiwari along with her family members came and got his statement recorded, on the basis of which formal FIR was lodged.

However, during the course of investigation, it transpired that Amit used to beat up Pooja Tiwari regularly. On 4.5.2016 a suicide note was taken into possession, which was handed over to the police by Amit himself. An audio having conversation between Pooja Tiwari, Amit Kumar with Bharat Gupta, the last one being a friend of Pooja Tiwari went viral on WhatsApp, which was incriminating against the petitioner Amit. Amit was arrested this case on 5.5.2016. The police had collected evidence linking him with the crime to the effect that he had abetted suicide of Pooja Tiwari. After completion of investigation, challan has since been filed in the Court and charge for the offence under Section 306 IPC framed against him.

The petitioner had filed an application for regular bail in the Court of Sessions, which was declined by learned Additional Sessions Judge, Faridabad vide order dated 24.6.2016, as such, he has approached this Court with same request.

Notice of the petition was given to respondent – State and counsel representing the State has put in appearance. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the record.

It has to be taken note of that FIR in question was lodged by complainant Ravi Tiwari – father of the deceased in which he had blamed Dr.Anil Goyal for abetting suicide of Pooja Tiwari. Similarly, Amreen Khan, who had been putting up in a room in Flat No.509, Sadhbhawna Apartment, Sector-46, Faridabad whereas in other portion, the deceased was residing, had also made a statement in that regard. It was only when a clip went viral on WhatsApp and social media that police suspected the petitioner to be involved in the incident. But then a suicide note, which is proved to be in hand of the deceased, as per report received from FSL is there mentioning that the deceased was under tension undergoing a bout of depression in connection with her professional engagements. She had rather blamed Dr.Anil Goyal, Archana Goyal and Sourabh Bhardwaj and some media persons for her harassment. Not even a word is there with respect to the petitioner/accused.

Although learned counsel for the complainant has contended that in view of the CCTV footage, it is highly unlikely that deceased could have scribed this suicide note soon before her death and it had rather been handed over to the police by the present petitioner, which are highly suspicious circumstances. May it be so but then the fact remains that the suicide note has been found to be in handwriting of deceased as per report by the Forensic Science experts and cannot be ignored. As it comes out from the file, the petitioner has been a family friend of the deceased and the parents of deceased had asked him to take care of her at Faridabad and it was he, who had arranged accommodation for the deceased. His being responsible for the death of Pooja Tiwari does not comes out to be

plausible and convincing merely for the alleged reason that he was unhappy on Pooja Tiwari having relations with some other person. As has been stated by learned counsel for the petitioner, the petitioner is married, having a family and it does not seem convincing that he would go to the extent of forcing Pooja Tiwari to end her life or being directly responsible for her death without any strong motive.

Though counsel for the complainant has contended that the circumstantial evidence suggests that Amit Kumar has committed murder of Pooja Tiwari since he remained in his company soon before her death and it is for him to explain as to under what circumstances, she had died. But counsel for the petitioner while countering the arguments stated that the case of the police right from the beginning is that Pooja Tiwari had committed suicide by jumping from her flat. Amit Kumar has been challaned for an offence under Section 306 IPC i.e. abetting suicide by Pooja Tiwari and there is no evidence to show that Amit Kumar had committed the murder of Pooja Tiwari and no presumption under Section 106 of the Evidence Act can be drawn in such a manner.

I on my part feel that the investigating agency has come to conclusion that Pooja Tiwari had committed suicide and Amit Kumar has been challaned for abetting her suicide and not for committing her murder. Though it is stated that the complainant intends to move application in the trial Court for amendment of charge so as to get the accused charge-sheeted for an offence under Section 302 IPC, but as the things stand till date the petitioner has been booked for an offence under Section 306 IPC only. He is in custody since 5.5.2016. The trial is at the preliminary stage

and its conclusion is likely to take considerable time keeping in view the fact that the prosecution has cited as many as 76 prosecution witnesses. The guilt of the accused shall be determined during the trial. His further detention shall not serve any useful purpose.

Accordingly, the petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate, Faridabad, subject to the following conditions:

- (i) that he shall appear in the Court on each and every date of hearing;
- (ii) that he shall not give any threat or intimidation to the prosecution witnesses; and
- (iii) that he shall not leave India without prior permission of the Court.

The petitioner be asked to surrender his passport. In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any term and condition on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of bail.

It is clarified here that nothing discussed above be taken as any opinion on the merits of the case.

11.7.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No