

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

Crl. Misc. M-38569 of 2017 (O&M)
Date of Decision: February 06, 2018

Lokesh Kumar @ Lucky

...Petitioner

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. R.S. Rai, Senior Advocate with
Mr. Deepinder Brar, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG Haryana.

JAISHREE THAKUR, J. (Oral)

The instant petition has been filed under Section 438 of Cr.P.C., for grant of anticipatory bail to the petitioner in the event of arrest in FIR No.52 dated 15.01.2017, under Sections 306, 34 of the Indian Penal Code, registered at Police Station Camp Palwal, Tehsil and District Palwal.

Learned Senior counsel for the petitioner had *inter alia* contended that there was a civil dispute regarding the purchase of a house between the petitioner and the husband of the deceased. An agreement to sell the property had been executed in the year 2009 between the husband of the deceased and the petitioner herein, to which the deceased was an attesting witness. In fact, a civil suit for specific performance had been decreed and execution petition is pending. The learned Additional Sessions

Judge, Palwal, has declined bail by giving reason that custodial interrogation of the petitioner is required for the demarcation of the place of occurrence, which ground is not sustainable. The petitioner herein is ready to join the investigation as and when called upon to do so.

Notice of motion was issued in the matter and the petitioner herein was granted the interim relief.

Learned Senior counsel for the petitioner herein contends that on the direction of this Court, the petitioner has joined the investigation and nothing is to be recovered from him.

At this stage, Mr. Abhilaksh Grover, Advocate puts in appearance on behalf of the complainant and files the power of attorney, which is taken on record. It is contended that the deceased had left a suicide note behind, in which it was mentioned that her husband was involved in committees and had invested in committees (with Lovely) i.e. the present petitioner and in order to guarantee the money, documents had been kept with Lokesh @ Lovely. In the suicide note, it was alleged that though money had been returned, documents of the house were not returned, and therefore, the present petitioner would be guilty of offence under Section 306 of Indian Penal Code.

Learned State counsel, on instructions from the Investigating Officer, opposes the grant of anticipatory bail to the petitioner, on the ground that name of the petitioner has been reflected in the suicide note, while submitting that he has joined the investigation.

I have heard learned counsel for the parties.

For an offence to be made out under Section 306 of Indian

Penal Code (Abetment to suicide) there should be instigation, intentional aid or an intent that the person should commit suicide. The only reason for declining the anticipatory bail application by the learned Addl. Sessions Judge, Palwal, was that demarcation of the place of occurrence is to be got done at the instance of the petitioner, and therefore, custodial interrogation would be required.

Admittedly, the deceased committed suicide while in her home by hanging from a ceiling fan. Merely because the name of the petitioner was reflected in the suicide note or it has come on record that the petitioner had extended threat to the deceased to vacate the house, would not be a sufficient ground to decline the relief of anticipatory bail.

In view of the facts that the petitioner has joined the investigation, at this stage, without commenting on the merits of the case, the petition is allowed and order dated 12.10.2017 granting interim bail to the petitioner is made absolute subject to the conditions laid down in Section 438 Sub Section 2 Clauses (i)(ii) and (iii) of the Code of Criminal Procedure.

February 06, 2018
vijay saini

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No