

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

**CRM-M No.4091 of 2018
Date of Decision: 15.02.2018**

Harjit Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Vinod S. Bhardwaj, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

Mr. Loveneet Thakur, Advocate for
Mr. R.S. Bains, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner seeks grant of anticipatory bail in case bearing FIR No192 dated 06.09.2017 registered under Sections 306, 34 IPC at Police Station City Kharar.

[2]. FIR was registered on the statement of complainant Nirmla Devi. Complainant alleged that her husband died on 11.07.2016 and she was under stress because of that reason. After some time, she found a diary from the documents of her husband who was working as LIC Agent in Mandi Gobindgarh.

In the diary, it was written that the husband of the complainant had committed suicide after getting frustrated from Harjit Singh Saini Majra, Raghbir Singh Saini Majra, Jaswinder Kaur wife of Malkeet singh and one other lady. Complainant presented the diary before the police, wherein names of aforesaid persons were mentioned.

[3]. Learned counsel for the petitioner submitted that husband of the complainant died on 11.07.2016, but the FIR came to be registered only on 06.09.2017 after a period of more than 1 year from the alleged occurrence. The allegations do not show any complicity in terms of offence under Section 306 IPC as there was no concerted effort on behalf of the petitioner for abetting the offence in question. Learned counsel further submitted that DDR No.12 was recorded on 12.07.2016 at the instance of the complainant, wherein nobody was blamed by the complainant. Ram Kirpal was alive in PGI, but he also did not make any complaint against anyone. Co-accused Jaswinder Kaur got registered one FIR i.e. FIR No.128 on 21.07.2017 under Sections 406/420/120-B IPC at Police Station Kharar with the allegations that the husband of the complainant took away an amount of Rs.17,32,500/- being LIC Agent. The inquiry was conducted by the higher officer, wherein the complainant could not produce any suicide note. The account statements of co-

accused Jaswinder Kaur in Canara Bank, Kharar were also considered from where the amount of Rs.17,32,500/- was withdrawn from her account and the same was credited in the account of the complainant. Co-accused Jaswinder Kaur was granted interim bail by the High Court, but her anticipatory bail was ultimately dismissed vide order dated 15.12.2017 in CRM-M No.35328 of 2017 primarily on the ground that the co-accused along with present petitioner were involved in number of cases. Learned counsel further submitted that the case of the petitioner cannot be equated by the decision rendered in the case of co-accused Jaswinder Kaur as there is no connectivity of the petitioner with that of Jaswinder Kaur in the alleged accusation in the present case.

[4]. Learned counsel also submitted that the petitioner is involved in FIR No.103 dated 18.10.2012 registered under Sections 420, 120-B IPC at Police Station Mullanpur, in which Jaswinder Kaur is not co-accused with him. Jaswinder Kaur is co-accused with him in FIR No.7 dated 10.10.2016 registered under Sections 420, 120-B IPC at Police Station Sohana. Out of total four cases against the petitioner, one case was registered in the State of Madhya Pradesh against five persons, in which petitioner has been acquitted. Two cases were registered on account of exchange of land, in which petitioner is on bail. It

could not come on record as to in what manner the petitioner was helping co-accused Jaswinder Kaur.

[5]. On the other hand, learned State Counsel duly assisted by learned counsel for the complainant submitted that FSL report has been found to be positive qua the writing of the deceased in the suicide note. Pistol along with stamp papers and blank cheques have to be recovered from the petitioner.

[6]. At this stage, no conclusive finding can be recorded on the basis of alleged accusation/complicity of the petitioner on the basis of FSL report as the same shall be tested by the trial Court on the basis of ingredients of offence under Section 306 IPC. Similarly, the alleged role of the petitioner in FIR No.7 dated 10.10.2016 registered under Sections 420, 120-B IPC at Police Station Sohana would be tested so as to consider whether petitioner was aiding Jaswinder Kaur continuously till his role in the present case. The dismissal of anticipatory bail of Jaswinder Kaur was only relevant to consider whether petitioner was involved in number of cases along with co-accused Jaswinder Kaur in the past.

[7]. Evidently, out of four cases against the petitioner, one case was registered in the State of Madhya Pradesh, in which he was acquitted and two cases were in respect of exchange of land, in which petitioner is on bail. In the present case,

complicity of the petitioner would be tested strictly on the basis of ingredients of offence under Section 306 IPC in view of the fact that death of husband of the complainant took place on 11.07.2016 and the FIR was registered after a period of more than 1 year. During the intervening period, DDR No.12 was recorded on 12.07.2016 by the complainant wherein she did not blame anyone. Ram Kirpal was also alive in the PGI, but he also did not raise any allegation against the petitioner. The lodging of FIR No.128 by co-accused Jaswinder Kaur on 21.07.2017 against the husband of the complainant would also be tested so as to judge the complicity of the petitioner.

[8]. *Prima facie* in the opinion of the Court, the case of the petitioner cannot be equated with co-accused Jaswinder Kaur in view of above circumstances.

[9]. At this stage, without meaning anything on the merits of the case, I deem it appropriate to direct the petitioner to appear before the SHO/Investigating Officer to join investigation on 21.02.2018 at 11.00 AM and in the event of his arrest, he shall be enlarged on anticipatory bail, subject to the satisfaction of Arresting Officer. However, petitioner shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. Liberty is granted to the Investigating Officer that in case, the petitioner does not co-operate in the investigation, the Investigating

Officer may move appropriate application for cancellation of anticipatory bail.

[10]. Petition stands disposed of accordingly.

February 15, 2018

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No