

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-49775 of 2017

DATE OF DECISION: FEBRUARY 20, 2018

BALBIR SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

PRESENT: MS.BALJIT KAUR MANN, ADVOCATE FOR THE PETITIONER.
MR. VIKAS MALIK, DAG, HARYANA.
MR. LEKH RAJ SHARMA, ADVOCATE FOR THE COMPLAINANT.

MAHABIR SINGH SINDHU, J.

In pursuance to the order dated 15.02.2018, the Investigating Officer of the case, namely, ASI Yogdhyan is present and has informed that only two cases, i.e. the present one and the another FIR No.0234 dated 15.3.2017 under Sections 147, 149, 283 and 341 IPC registered at Police Station City Hisar is pending against the petitioner as well as other co-villagers and except that there is no other case pending against him.

The petitioner has filed the present application under Section 439Cr.P.C. for grant of bail in FIR No.86 dated 27.3.2017 under Section 306 IPC registered at Police Station Chandimandir, District Panchkula.

Learned counsel for the petitioner contended that initially an occurrence had taken place on 13.3.3017 at village Sekhpura, Tehsil Hansi, District Hisar and an FIR No.0075 dated 14.3.2017 under Sections 109, 147, 148, 149, 302, 307, 323 and 506 IPC and Section 25 of Arms Act, Police Station Sadar Hansi was registered against number of accused including

deceased DSP Bhagwan Dass. Thereafter, on 14.3.2017 said DSP Bhagwan Dass was transferred to Police Headquarters at Panchkula and on 15.3.2017 DSP attempted to commit suicide by gun shot with his service revolver in Officers' Mess at Panchkula and was consequently admitted in Alchemist Hospital, Panchkula where he remained admitted till 27.3.2017 and died. Thereafter, the FIR in the present case was registered against the petitioner and co-accused under Section 306 IPC on 27.3.2017. It was further contended that the petitioner surrendered before the learned trial Court on 6.11.2017 and since then he is in custody and report under Section 173 Cr.P.C. has already been submitted in this case. The trial will take a long time and as such the custody of the petitioner will no longer serve any purpose.

On the other hand, learned State counsel opposed the bail on the ground that the deceased was working as Deputy Superintendent of Police in Hayrana and on account of the harassment caused by the petitioner and other co-accused, he committed suicide and as such no case is made out to grant bail to the petitioner.

Learned counsel for the complainant has also vehemently opposed the bail on the ground that the petitioner is having criminal background and in view of the fact that another criminal case is pending against him, he does not deserve the concession of bail. Learned counsel has further argued that the suicide note dated 15.3.2017 written by the deceased clearly reveals that he committed suicide on account of harassment meted out by the petitioner and other co-accused.

Heard both sides and perused the paper book.

A perusal of the FIR No.0086 dated 27.3.2017 under Section 306 IPC registered at Police Station Chandimandir reveals that on 13.3.2017, a quarrel had taken place in village Sekhpura, Tehsil Hansi, District Hisar between the party led by Ram Kumar son of Ram Sawroop on one hand and another party of Subhash son of Suraj Bhan on the other hand, in which three persons died and two were injured. Thereupon, Sanjay Kumar son of Ram Kumar lodged an FIR No.0075 dated 14.3.2017 under Sections 109, 147, 148, 149, 302, 307, 323 and 506 IPC and Section 25 of Arms Act, Police Station Sadar Hansi, District Hisar against 23 known and 4-5 unknown persons including DSP Bhagwan Dass(deceased) and his brother Satyanarayan @ Pappu. It is alleged in the present FIR that Ram Kumar, etc. supported the petitioner in the election for the post of Sarpanch against the daughter (Pooja) of Bhagwan Dass (deceased) who was supported by Subhash and others. Therefore, there existed a political rivalry between them and the names of Bhagwan Dass (deceased) and Satyanarayan were falsely roped in the FIR which led to an attempt to commit suicide by Bhagwan Dass on 15.3.2017 and ultimately, he died on 27.3.2017.

As per the case of the prosecution the suicide was attempted by Bhagwan Dass on 15.3.2017 and thereafter, he was admitted to Alchemist Hospital, Panchkula, where he succumbed to his injury on 27.3.2017 and an FIR was lodged against the petitioner and other co-accused under Section 306 IPC. The suicide note dated 15.3.2017 allegedly written by DSP Bhagwan Dass reads as under:-

“I have rendered the entire service with hard labour and honesty. The allegations levelled against me regarding murder

are totally baseless. The name of my brother Pappu was also wrongly mentioned. I have fed up from the life of humiliation. I cannot live any more. Balbir Sirdana, Ram Kumar Comrade's four sons, Balbir's brother's sons Sandeep @ Munia, Rameshar and Ravinder are responsible.

Sd/-

15/3/17”

Although the veracity of the alleged suicide note will be seen at the time of trial, but even if it is to be taken on its face value, no offence under Section 306 IPC is made out against the petitioner. As per the version in the present FIR as well as the FIR No.0075 dated 14.3.2017 registered at the instance of Sanjay Kumar son of Ram Kumar, admittedly, a quarrel had ensued between both the parties in their village Sekhpura on 13.3.2017 in which three persons died and two received injuries from the side of Sanjay Kumar, including Sanjay Kumar himself and the petitioner was nowhere in picture. The petitioner was never reported to be the part of the quarrel that took place on 13.3.2017, nor any complaint was lodged by him against Bhagwan Dass, etc. In the present case, there is neither any abetment attributed to the petitioner, nor any allegation(s) that the petitioner instigated deceased Bhagwan Dass to commit suicide. The murder case was registered at the instance of Sanjay Kumar against DSP Bhagwan Dass and his brother etc. and thus, the petitioner cannot be blamed for the same. It was only Sanjay Kumar son of Ram Kumar who lodged the FIR naming DSP Bhagwan Dass in murder case and not the petitioner. Therefore, *prima facie* this Court is of the view that the ingredients necessary to prove the abetment

to commit suicide against the petitioner are lacking, as the prosecution has failed to show any material against the petitioner to connect with the commission of offence under Section 306 IPC. Report under Section 173 Cr.P.C. has already been submitted. Charges are yet to be framed. The trial will take a long time. Therefore, no useful purpose would be served by keeping the petitioner in jail.

In view of the above, the present petition is allowed the petitioner is granted the concession of bail to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Panchkula.

Nothing stated hereinabove shall be construed as an expression of opinion on the merits of the case.

February 20, 2018
Gulati

(MAHABIR SINGH SINDHU)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes