

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

CRM-M No.5081 of 2019 (O&M)

Date of decision: 22.02.2019

Rakesh Kalia

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Atul Goyal, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

Ms. Pushpinder Kaur, Advocate
for the complainant.

ARVIND SINGH SANGWAN J.

CRM No.5299 of 2019

Heard.

Allowed as prayed for and the additional affidavit of the
petitioner dated 08.02.2019 is taken on record.

CRM-M No.5081 of 2019

Prayer in this petition is for grant of anticipatory bail to the
petitioner in FIR No.199 dated 14.12.2018 registered under Section 306
read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC') at
Police Station Basti Bawa Khel, District Police Commissionerate,
Jalandhar.

Counsel for the petitioner has submitted that as per the
allegations in the FIR, which was got registered by the complainant –
Sheena Kalia against the petitioner – Rakesh Kalia and his son Rajiv

Kalia and his wife Jyoti Kalia. It is stated that the complainant was married to deceased – Rahul Kalia son of the present petitioner on 06.07.2003 and she has 03 children from the said marriage. She has 02 minor daughters and a minor son. After her marriage, she stayed with her in-laws for a period of about 10 years. It is further stated that the accused – Rajiv Kalia is the real brother of her husband, Jyoti Kalia is the mother-in-law, the petitioner is the father-in-law and Sumati Kalia is wife of Rajiv Kalia, who separated the complainant and her husband in the mess and kitchen and they started living on the ground floor and the accused was living on the first floor. It is further stated that the husband of the complainant was having a joint medical business with the petitioner and brother of the accused and they were always looking for an opportunity to throw the husband of the complainant out of the business and they also used to give him less amount of income and would keep major amount of income with them. In order to help her husband, the complainant opened a play way school at her parental house on 15.06.2018 with the help of her brother and mother so that she may generate additional income for the family. It is further stated that the husband of the complainant used to remain frustrated due to the ill treatment and harassment caused by the accused persons. On 17.08.2018, the husband of the complainant left the complainant and his kids to her parental home where she was running a play way school and he left for the shop. As per normal routine, the husband of the complainant used to pick her (i.e. the complainant) at about 02:30 p.m. and on that day, when he did not turn up, she tried to contact him on phone number and landline number and the servant of the shop namely

Vijay informed her that he had already left at about 01:30 p.m. On this, the complainant reached her matrimonial home and found that her husband was lying unconscious in a room and accused told her that he is not feeling well due to the diabetic problem. He was taken to civil hospital where doctors declared him dead. On the next day in the morning, at about 09:00 a.m. despite resistance of the complainant not to perform the last rites, he was cremated at about 10:00 a.m. It is further stated that the complainant was under utter shock and could not go to her room. On 20.08.2018, when she searched the *almirah* of her husband, she found the mobile phone of her husband lying on the shelf and she also found a hand-written note under the mobile phone and thereafter, she informed the police.

For a reference, the suicide note of the deceased reads as under:-

“I Rahul Kalia, in my full senses depose that only and only 04 persons are responsible for my death. They have committed a big fraud with me on 27.09.2017 for usurping a shop situated on GT Road opposite Civil Hospital. I do not want to spend my whole life by taking the loan and I even do not want to live like a servant of these persons namely Sumati Kalia wife of Rajiv Kalia, Rakesh Kalia son of Vidya Rattan Kalia, Rajiv Kalia son of Rakesh Kalia and Jyoti Kalia wife of Rakesh Kalia.

I am committing suicide on account of the maltreatment given by these 04 persons and these persons are responsible for the same.

From September, 2014 to September, 2017, I have invested money in Kalia and Company opposite Civil Hospital by raising money through committees for 03 years, by mortgaging the jewellery of my wife and by

taking the amount on loan and even by selling my car. Both these persons in these 03 years did not invest even one paisa in the shop and were withdrawing Rs.1.5 lacs per month from the shop. Now, I am heavily under debt and for this, these persons are responsible. I will not forgive these persons even after my death and I kept weeping for the last 11 months.

Rahul Kalia”

Counsel for the petitioner has submitted that there is no allegation against the petitioner about the abetment or any such act, which has abetted the deceased to commit suicide. It is further submitted that there is a delay of 2 days in registration of the FIR and when the cremation had taken place no foul play was alleged by the petitioner and even the doctors of Joshi Hospital where the deceased was taken, has also not raised any doubt about the unnatural death of the deceased.

In reply, counsel for the State, on instructions from ASI Gurnam Singh and assisted by counsel for the complainant has opposed the prayer for bail on the ground that a perusal of the suicide note clearly show that the petitioner being the father and the co-accused Rajiv Kalia being the brother of deceased – Rahul Kalia had forced him to invest the amount in the business which he had raised by selling his entire belongings and also investing the same. It is further argued that the deceased had died an unnatural death and without conducting the postmortem, he was cremated by the petitioner next day in the morning despite there being resistance by the complainant. It is also submitted that the deceased has died in the premises of the petitioner's house where he was maltreated and was subjected to harassment as he was not

given his due share from the income of the business and on that account, the complainant had to open a day care centre for the minor children where she was working to generate additional income, which also demonstrates that the petitioner and his son, who is a co-accused, were harassing him continuously for the last 03 years in a manner that he was forced to commit suicide being heavily under debt as he has invested the money in the family business, which was in the control of the petitioner and his other son. Lastly, it is argued by counsel for the State that as per the FSL report, the suicide note was found to be in the hand-writing of the deceased – Rahul Kalia.

After hearing the counsel for the parties, I find no ground to grant anticipatory bail to the petitioner. The petitioner has been specifically named in the FIR and even from the perusal of the FSL report, the suicide note is in the hand-writing of deceased, therefore, it cannot be said that the ingredients of abetment are not made out as it is a matter of trial. There are serious allegations against the petitioner as the complainant has lost her husband.

In view of the above and considering the gravity of the allegations, the petitioner is not entitled for the benefit of pre-arrest bail and accordingly, the petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

22.02.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No