

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM M-20753-2018 (O&M)
Date of Decision : 10.04.2019

Manish Gupta and others

..... Petitioners

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. A.P.S.Deol, Senior Advocate
with Mr. Himmat Singh Deol, Advocate
for the petitioner.

Mr. V.G.Jauhar, Sr. DAG, Punjab.

Mr. Gurjeet Singh Kaura, Advocate
for the complainant.

RAJ SHEKHAR ATTRI, J. (Oral)

Abovenamed petitioners have preferred the instant petition under Section 438 Cr.P.C. for grant of pre-arrest bail in case FIR No.155 dated 10.04.2018, registered under Sections 304-B, 120-B IPC, at Police Station Civil Lines, Amritsar, District Amritsar.

This case relates to the death of Smt. Nitya Gupta, who died on 13.02.2018, by consuming aluminium phosphate, within seven years of her marriage.

Briefly stated, it is a case of the prosecution that the marriage between the deceased and Atul Gupta (non-petitioner) was solemnized on 04.12.2011. They were blessed with a son namely Mahir, aged about five years.

Smt. Nitya Gupta had died in her matrimonial home. However, intimation was given to her parents and also to the police. The inquest report was prepared.

Sh. Vinod Kumar, father of the deceased, had suffered a statement (Annexure P-1) before the police wherein he has stated that he has only a doubt as to whether the death of Nitya Gupta had been caused due to torture or administration of poisonous substance. This court would like to reproduce the relevant part of the said statement (Annexure P-1) hereunder:-

“We only have doubt that whether the death has been caused due to the torture or administration of some poisonous substance by in-laws family. Therefore, further proceedings will be carried out after receiving post mortem report. The post mortem of my daughter Nitya Gupta be conducted. Statement has been recorded which has been read over and is correct.”

Similarly, brother and cousin of the deceased namely Harshul and Manish Kumar Gupta son of Satish Kumar respectively suffered statements suspecting torture or administration of some poisonous substance to the deceased. The postmortem examination of deceased Nitya Gupta was conducted on 14.02.2018 but no FIR was registered. Rather, the matter was kept in limbo till 10.04.2018.

Infact, the FIR was registered on 10.04.2018 on the statement of Harshul Garg alleging that the petitioner and his other family members had been demanding dowry; they were harassing the deceased and in pursuance thereof she had consumed poison.

I have heard learned counsel for the parties and have gone through the record.

Learned counsel for the petitioner has submitted that infact on 13.02.2018, there was no story with the complainant or any of his family members against the accused rather complainant Harshul Garg in connivance of his other relatives started extracting money from the petitioners and their family members; that complainant Harshul Garg alongwith his associates had forged the signatures of the deceased on a cheque which was stolen from the matrimonial house of the deceased and presented the same with the bank on 14.02.2018 and they had withdrawn the huge amounts from the bank account of deceased; that the complainant has extracted Rs.3,00,000/- by way of cheque from co-accused Parveen Gupta; that the complainant and his associates pressurized the wife of the petitioner (deceased) to open the lockers on 14.02.2018 and took away the gold jewellery of the deceased; that Harshul Garg in the company of his relative had received a cash amount of Rs.3,00,000/- on 22.03.2018 and he himself submitted receipt Annexure P-5; that Vinod Kumar, father of the deceased, alongwith his relative namely Sh.R.K.Garg had got procured a transfer deed (Annexure P-6) in favour of Mahir, minor son of the deceased regarding transferring half share in Kothi No.110, Anad Avenue, Amritsar; and also got executed agreement (Annexure 6A); that when one of the co-accused came to know that members of the parental family of the deceased had extracted huge amount and stolen valuable articles from the matrimonial house of the deceased, they submitted an application in July, 2018 and another application in December, 2018 on the basis of which FIR No.21 dated 20.01.2019 has been registered against Harshul Garg, Kunal Bansal, Vineet Goyal for the offences under Sections 384 and 388 IPC.

It has been further argued that much after submitting of the

application before the police; Harshul Garg in connivance with his other relatives had submitted application to the police on 09.04.2018 on the basis of which FIR (Annexure P-1) was registered on 10.04.2018.

It has been further argued that visra of the deceased had been exchanged with another dead body and infact deceased had died due to natural death and this is why no FIR was lodged till 10.04.2018. It has also been argued that petitioner Nos.1 and 2 Manish Gupta and Deepali are residing separately at Gurgaon whereas petitioner No.3 Meeta, who is a doctor by profession, has been residing in the campus, Christian Medical College, Vellore (Tamil Nadu).

On the other hand, learned counsel for the complainant has vehemently contended that on 13.02.2018 actual cause of death was not known, therefore, FIR could not be lodged and it was lodged only after the receipt of the report of the forensic science laboratory. He has submitted that now trial is in progress and the material witnesses have been examined.

I have given my thoughtful consideration to the rival contentions.

Petitioner No.1 Manish Gupta is the elder brother of the husband of the deceased and petitioner Nos.2 and 3 Deepali and Dr. Meeta are the sisters-in-law (Jethani and Nanad respectively) of deceased Smt. Nitika Gupta, who had died on 13.02.2018. The cause of death has been declared as poison which is led to respiratory failure and it was sufficient to cause death in the ordinary course of nature. However, there was no external injury on her body.

A bare perusal of the FIR transpires that the allegations have been levelled against the petitioners with regard to entrustment of *istridhan*

articles, with regard to demand of dowry and with regard to harassment on account of dowry. These facts were within the personal knowledge of the complainant. No reason for keeping the matter in abeyance till 10.04.2018 has been assigned. It has also been brought to the notice of this court that on the application dated 26.07.2018, submitted by Manish Gupta (petitioner No.1), an FIR No.21 dated 20.01.2019 was registered against Harshul Garg, Kunal Bansal and Vineet Goyal for the offences under Sections 384 and 388 IPC. Numerous documents have been placed on record to establish that the complainant party had received huge amounts and secured a transfer document before registration of the FIR. Complainant Harshul Garg received Rs.3,00,000/- in cash vide receipt dated (Annexure P-5) on 22.03.2018 from co-accused Parveen Gupta; Annexure P-6 is the transfer deed vide which present co-accused Parveen Gupta had agreed to transfer half of his share in Kothi No.110, Anand Avenue, Amritsar in favour of Mahir, minor son of the deceased. This document was also witnessed by Vinod Kumar, father of the deceased and one R.K Garg. There was also an agreement (Annexure 6/A) dated 14.02.2018 vide which co-accused Parveen Gupta agreed that an amount of Rs.20,00,000/- shall be given by way of fixed deposit in the name of Mahir, minor son of the deceased, in the bank to secure his future and that would not be encashed till the minor attains the age of majority. All the documents transpires that complainant party indulged in securing money and the share of aforesaid kothi before getting registered the FIR.

Learned State counsel has stated that the petitioners have joined the investigation and they are no more required for custodial interrogation.

In the circumstances, without going into the merits of the case, I do not deem it appropriate to deny the concession of anticipatory bail to the petitioners in the present case.

Resultantly, the interim order dated 16.05.2018 is made absolute subject to the conditions as envisaged under Section 438(2) Cr.P.C.

Petition stands allowed.

Nothing express hereinabove shall affect the merits of the case.

10.04.2019
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(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No