

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

CRM-M No.14295 of 2019
Date of decision: 5th April, 2019

Naresh Kapoor

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. P.S. Ahluwalia, Advocate for the petitioner.

Mr. Saurav Khurana, Dy. Advocate General, Punjab
for the respondent/State.

FATEH DEEP SINGH, J.

This first regular bail application under Section 439 Cr.P.C. of accused petitioner Naresh Kapoor, who is in judicial custody for more than two months, has come about in case bearing FIR No.34 dated 06.02.2019 under Sections 306, 305 IPC pertaining to Police Station Rama Mandi, District Police Commissionerate Jalandhar.

The present case was got registered by complainant Rajesh Kumar Mehta, adoptive father of a minor girl, student of 10th Class. It is the stand of the complainant that his adopted daughter, who is a student of a school in Jalandhar, had committed suicide during intervening night of 5th and 6th February, 2019 on account of harassment and intimidatory conduct of her teacher, the present petitioner. Regarding this suicide note

was recovered alleged to have been written in the handwriting of the deceased.

Learned counsel for the petitioner Mr.P.S. Ahluwalia inter alia contends that the records placed on the file depict that the deceased was weak in her studies especially mathematics and has failed in her pre-board examination in the subjects of mathematics, science and social science. Learned counsel by seeking support from **‘Hasmukhbhai Gokaldas Shah vs. State of Gujarat’ 2008(24) RCR(Criminal) 534; ‘Girish Bhaurao Salunke vs. The State of Maharashtra & others’ 2018(3) Bom.C.R. (Cri.) 164; ‘Rajbir Pundir & another vs. State of Haryana’ 2015(4) RCR(Criminal) 250; and ‘Ritu Monga vs. State of Punjab & others’ 2010(3) RCR(Criminal) 218** has sought to project that in such a situation mere insult or strictness by a teacher, who happens to be awarded as the best teacher in the country by the Central Govt. on account of his student performance, by such an act of goading his student, offence of abetment to suicide is not made out. It is argued that the teacher remained on leave from 21st to 25th January, 2019 and thereafter on account of Republic Day break had only attended the school on 29.01.2019 and then on 3rd and 4th February, 2019, and therefore there is no occasion to level such allegations against the teacher who had made sincere efforts and rather it was the poor academic performance of the student and her having failed in the examination, was the compelling reason for the child to take such a step.

Learned State counsel Mr. Saurav Khurana, Dy. Advocate General, Punjab on instructions from ASI Malak Raj, Police Station Rama Mandi has opposed the grant of bail vehemently on the grounds that by the acts of the petitioner teacher, a minor girl has been forced to take this step. Reliance was placed on the suicide note alleged to have been left behind by the deceased, arguing that the same was an indicator of the allegations attributed to the petitioner, and if allowed bail there is every likelihood that the petitioner might influence the investigation and the trial.

Going through the submissions, the allegations especially the suicide note is reflective of the fact that the child was under psychological disarray. There is no specific attribution against the petitioner for having abetted this suicide in terms of Section 107 IPC. The ratios cited by the learned counsel for the petitioner in similar situations have held that such scolding or words of advice by a teacher to the students especially when they are of general nature are not synonymous to incitement and instigation. More so, the very fact as to the role of the accused petitioner in commission of the offence can only be comprehensively and judiciously adjudicated upon evidence. The petitioner is behind bars and it would be travesty of justice to further keep him in custody as trial is not likely to conclude in the near future. Therefore, this Court is of the opinion that it is a fit case to allow the prayer made. Thus, the petitioner is ordered to be released on regular bail

to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Jalandhar. However, it is made clear that anything observed herein shall not be construed as an expression on the merits of the case.

The petition stands disposed off accordingly.

(FATEH DEEP SINGH)
JUDGE

April 5, 2019
rps

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