

209-3

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

CRM-M-33317 of 2019 (O&M)

Date of decision: October 01, 2019

Satish Gupta and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Bipan Ghai, Senior Advocate with
Mr. Paras Talwar, Advocate for the petitioners.

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

Mr. Umesh Aggarwal, Advocate
for respondent No.2-complainant.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of anticipatory bail to petitioners, in FIR No.58 dated 05.07.2019, under Section 306 of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station GRP Amritsar, District Amritsar.

The above FIR has been registered on the basis of statement dated 05.07.2019 made by Manish Gupta son of late Sh. Praveen Gupta (deceased) with the allegation that he is working in a company at Gurugram and yesterday night, i.e. on 04.07.2019, he was informed by his relative on mobile phone that his father (Praveen Gupta) had died near *Jaura* Railway crossing, Amritsar as he has been run over by the train. Consequently, he reached at the Police Station, where he was

shown nine pages of suicide note, recovered from the person of his father, which he duly recognized in his father's hand-writing. The reason for taking the extreme step of suicide by his father is stated to be that his brother Atul Gupta got married with Nitya Gupta daughter of Vinod Garg in the year 2011 and both were blessed with a son, namely Mahir aged 6 years, but in the year 2018, she died in her matrimonial home. On account of this, an FIR No.155 dated 10.04.2018, under Sections 304-B, 120-B IPC Police Station Civil Lines, Amritsar was registered against his father (Praveen Gupta), Atul Gupta (brother), Anita (mother), Meeta (sister) and his wife Deepali. In view of the above FIR, his father remained in jail for one year and which made him very upset on account of the threat extended by the accused in the present case including the petitioners and implicated him in a false case. Also alleged that even a legal notice was also received from co-accused, namely Shivender Singh, through his counsel, for claiming damages to the tune of ₹25 lakhs and on account of the harassment by all the accused, he has written a suicide note and committed suicide while jumping in front of the train.

On 19.08.2019, this Court has passed the following order:-

“Notice of motion for 29.08.2019.

On the asking of the Court, Mr. Venu Gopal Jauhar, Sr. DAG, Punjab accepts notice on behalf of the respondent/State.

Mr. Umesh Aggarwal, Advocate, who is present in the Court, has filed power of attorney on behalf of the complainant. The same is taken on record.

Requisite copies of the petition be supplied to learned Counsel for the respondent as well as complainant during the course of the day.

Learned State Counsel will seek instructions in the matter.

In the meanwhile, the petitioners are directed to join the investigation before the Investigating Officer. In the

event of their arrest, the Arresting Officer would admit them to interim bail in the present case till the next date of hearing on their furnishing adequate bail and surety bonds to his satisfaction. The petitioners are also directed to abide by all the conditions as envisaged under Section 438(2) Cr.P.C.

To be heard along with CRM-M-31277-2019.”

On the previous date of hearing, i.e. 18.09.2019, this Court passed the following order:-

“Mr. R.S. Cheema, Sr. Advocate representing the petitioner in CRM-M-34512 of 2019 has pointed out that there are glaring infirmities in the prosecution version in as much as the alleged suicide note was notarized way back on 26.04.2019 and the deceased is stated to have committed suicide on 05.07.2019. Further submitted that even in the FIR serial number of the Stamp paper on which above suicide note has been scribed is mentioned as AK457152 instead of AK457151 as is clear from the vernacular of Annexure R-1 and thus the entire prosecution case is manipulated just to implicate the petitioners in a totally false case.

Learned State counsel is not able to answer the above submissions; he seeks time to have instructions in the matter.”

Today, learned State counsel, on instructions from ASI Lakhwinder Singh, stated that the alleged suicide note was notarized on 26.04.2019 and the death had taken place on 05.07.2019, i.e. after a period of more than two months. He has also not disputed the serial number of the stamp-paper, i.e. AK457151 as reflected in the vernacular of Annexure R-1. Learned State counsel has further apprised the Court that in terms of order dated 19.08.2019, the petitioners have joined investigation and their custodial interrogation is not required.

Although, learned counsel for the complainant has opposed the bail on the ground that there is another suicide note of the same date, but neither that is acceptable; nor the same will make any difference, for the simple reason that present FIR has been registered only on the basis of suicide note dated 26.04.2019 and the same is not disputed by learned State counsel. Moreover, this aspect of the matter would be examined by learned trial Court after adducing evidence by both sides, if any, and no opinion can be expressed, at this stage lest it may prejudice the case of either of the parties.

In view of the above, order dated 19.08.2019 granting interim bail to the petitioners, is made absolute, subject to the provisions of Section 438(2) Cr. P.C.

Petition stands disposed off, accordingly.

However, it is made clear that the petitioners shall fully co-operate with the Investigating Officer as and when called for further investigation.

The above observations may not be construed as an expression of opinion on the merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

October 01, 2019
mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No