

Sr. No.105+109

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

CRM-M-37111-2019(O&M)
Date of decision:09.09.2019

Raj Rani and another

.....Petitioner

versus

State of Punjab

.....Respondent

Prabjot Kaur

CRM-M-38121-2019(O&M)

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Manish Verma, Advocate
for the petitioners.

Rajbir Sehrawat, J(Oral)

This Order shall dispose of two petitions bearing numbers i.e. CRM-M-37111-2019 and CRM-M-38121-2019 filed under Section 438 Cr. P.C. for grant of anticipatory bail to the petitioners in case FIR No.0106, dated 03.08.2019 under Sections 306 and 34 IPC, registered at Police Station Meharban, Police Commissionerate Ludhiana, District Ludhiana.

For convenience of the Court, facts are being taken from CRM-M-37111-2019, which is filed by parents of the petitioner in the second petition.

FIR in this case came into being on the statement of the father of the deceased, stating therein that his son was married with Prabjot Kaur; the daughter of the petitioners on 23.11.2016. Immediately, after the marriage, the petitioners and their daughter started creating problems for the

CRM-M-37111-2019(O&M)
CRM-M-38121-2019(O&M)

-2-

son of the complainant. The daughter of the petitioners forced the son of the complainant to leave his parents house. Thereafter, he was made to reside at rented premises in the near vicinity of the house of the present petitioners. However, the petitioners and their daughter were not happy even with that. Despite that the petitioners and their daughter kept on harassing the deceased. Finding the son in precarious situation, the complainant helped his son in getting a new house, by purchasing a plot for house. Thereafter, couple started residing in the new house as well. Subsequently, on 14.11.2018, the daughter of the petitioners gave birth to a girl child. The complainant along with his wife visited to his son's house to see their grand-daughter. However, the petitioners and their daughter again created problem for the son of the complainant saying why his parents had visited there. The matter did not stop here. Petitioner No.1, was probably, indulging in the business of '*Committees*', therefore, she forced her daughter to bring some money by taking it from the son of the complainant. On that account, some dispute had occurred between the couple. At that time, the son of the complainant had given a slap to the daughter of the petitioners. Due to the impact, the daughter of the petitioners was hit against some hard object. But to create evidence, the petitioners got her medically examined so as to allege that she had been given beatings. Again the son of the complainant and his family was pressurised without any reason. The son of the complainant was even forced to swear an affidavit that he will not threaten to commit suicide. Beside this also, litigations were started under Sections 107/151 Cr.P.C, and dowry/domestic violence case. Thereafter, the son of the complainant was called to women cell in connection with those cases. When he had appeared before the women cell, relatives of the

CRM-M-37111-2019(O&M)
CRM-M-38121-2019(O&M)

-3-

present petitioners and they themselves threatened the son of the complainant with life and, further threatened that his entire family would be ensured to be behind the bars. Feeling aggrieved of this, the son of the complainant committed suicide just after three days. With these allegations, FIR under Sections 306/34 IPC was registered against the present petitioners, and their one of the relatives, who allegedly threatened the deceased in the women cell itself.

Arguing the case, learned counsel for the petitioner submits that, in fact, the petitioners are the victims. The daughter of the petitioners was given a beating by the deceased about 12/13 days earlier. She was medically examined also. Therefore, there is no question of the petitioners abetting the deceased to commit suicide. It is further submitted that the deceased was having suicidal temperament, therefore, the petitioners had even obtained a sworn affidavit from the deceased, as a pre-condition of sending their daughter with him; to the effect that he shall not threaten to commit suicide. So far as, the lodging of the case against the deceased and his family is concerned, this is only availing legal remedies by the daughter of the petitioners. Availing of the legal remedy, by no means, can be taken as abetment to commit suicide. Learned counsel has relied upon the judgments of the Hon'ble Supreme Court rendered in **2011(3)SCC 626; M.Mohan versus State Tr. Dy. Supdt. of Police, 2009(16) SCC 605; Chitresh Kumar Chopra versus State (Govt. of Nct of Delhi)**. Still further, it is submitted that there is no proximity between the alleged instigation and the act of suicide by the deceased. Hence, it is prayed that the petitioners deserve to be granted concession of anticipatory bail

Of course, the accused, as an individual, has a right to life and

CRM-M-37111-2019(O&M)
CRM-M-38121-2019(O&M)

-4-

liberty, however, that right to life and liberty can be curtailed according to the procedure prescribed by the law. In case of criminal investigation, the ordinary prescribed procedure is that the Investigating Officer can arrest the accused even without warrant. But; to ensure that an innocent person is not unduly harassed by the Police Officers by misusing their authority, special and extraordinary power has been conferred upon the courts to protect the individual from unnecessary harassment. However; this power is so extraordinary that this is not even available in some parts of the country; and qua some offences under special statutes; it is not available even in the entire country. Therefore, availing anticipatory bail is not a fundamental right of an accused. Thus, being a special power, the power under Section 438 Cr.P.C has to be exercised only in cases, where there are circumstances leading, predominantly, towards the ex-facie innocence of the accused, coupled with the fact that if the accused is protected from the arrest, then the investigation of the case shall not be unduly hampered.

Coming to the facts of the present case, there is an allegation from the complainant that from the day of marriage itself; the petitioners and their daughter were harassing the deceased, son of the complainant. Thereafter, chain of events had been created by the petitioners, leading to the deceased being forced to start living separately from his parents. As per the allegations; the deceased was even being forced to pay the money to the petitioners and their daughter. Still further, it has come on record that several litigation's were initiated against the deceased and his family members. On the top of it, when the deceased had gone to attend the proceedings before the women cell, as per the allegations, he was threatened with life and with imprisonment of his entire family. Sequence of the

CRM-M-37111-2019(O&M)
CRM-M-38121-2019(O&M)

-5-

troubles, created, allegedly, by the petitioners; do reflect the situation where the deceased can be constrained to take the extreme step of ending his life. Therefore, although, the facts would be finally determined by the Trial Court, at this stage, there do not appear to be any mitigating circumstances to show, ex-facie innocence of the petitioners; vis-a-vis the allegation levelled against them. Hence, this Court does not find any ground to exercise its extra-ordinary powers to grant anticipatory bail to the petitioners.

Otherwise also, the allegation involves the facts, and intimate situations which can be only in the knowledge of the present petitioners, and even more in the knowledge of their daughter. Only the petitioners of these two petitions would be in a position to answer qua the actual facts and situations prevalent around the extreme step taken by the deceased. However, if they are granted anticipatory bail; to protect them against arrest, then during the investigation they may not be answering the question in the right earnest. Therefore, this Court is of considered opinion that granting any protection to the petitioners would hamper even the free and fair investigation by the police.

Although learned counsel for the petitioners has relied upon the certain judgments to argue that availing of the legal remedies cannot be taken to be at par with instigation or abetment, however, judgments are distinguishable on the facts of the respective cases. Moreover, none of these judgments is in a case of anticipatory bail. Otherwise also, in the present case, the petitioners and their daughter have been alleged to have travelled even beyond taking the legal remedies. Getting a sworn affidavit that the deceased would not threaten of committing suicide, by no means,

CRM-M-37111-2019(O&M)
CRM-M-38121-2019(O&M)

-6-

can be said to be availing legal remedy. The act of obtaining such affidavit from the deceased itself reflects that the alleged harassment upon the deceased was going on since long; and being repeatedly harassed; the deceased was repeatedly forced to think of getting rid of life, which ultimately he did; when even his family was threatened with dire consequences; despite the fact that the family was not even residing with him.

In view of the above, finding no merit in the present petitions, the same are dismissed.

9th September, 2019
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*