

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

**CRM-M No.61660 of 2018 (O&M)
Decided on: 10.01.2019**

Rakesh Kumar Batra @ Shanty Batra

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Kamal Narula, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in FIR No.20 dated 23.03.2018 registered under Section 306 of the Indian Penal Code (in short 'IPC') at Police Station City Fazilka, District Fazilka.

Brief facts of the case are that the FIR was registered on the statement of Neha wife of Vikas Sharma with the allegations that her husband was running a medical store and being under depression on 22.03.2018 he told her that co-accused Pawan Kumar Popli and Sandeep Popli were working as bookies and he has lost an amount of 18 lacs by betting on cricket. He further informed her that this amount was borrowed by him from several persons and he was unable to repay the same as the creditors were harassing him. Again, on 22.03.2018, the complainant received a phone call that Vikas Sharma was being harassed by 02 persons along with Sahil Baghla, Gora Puneja, Babbu Chabra, Shunti Batra and Seema and he is going to commit suicide.

Counsel for the petitioner has submitted that, in fact, the petitioner is the owner of the shop, which was given to the complainant on rent for running a medical agency and the petitioner is named in the FIR just to put pressure on him. It is further submitted that from the contents of the FIR and the suicide note, the offence under Section 306 IPC is not made out against the petitioner.

Counsel for the State has relied upon the order dated 13.07.2018 passed by this Court in CRM-M No.25499 of 2018, vide which the anticipatory bail application of co-accused of the petitioner namely Gurvinder Taneja @ Gora Taneja @ Gora Dhuneja was dismissed. The operative part of the said order reads as under:-

“...Counsel for the petitioner has further argued that from the perusal of the suicide note as well as the FIR, the ingredients of abetment are not proved and no such evidence has come on record to show that the petitioner has acted in a manner, which abetted the deceased to commit suicide.

In reply, counsel for the State, on instructions from the Investigating Officer, has referred to the suicide note wherein the deceased has named the petitioner as one of the person, who was harassing him. Counsel for the State has relied upon the order dated 08.05.2018 vide which the anticipatory bail application of 02 co-accused namely Pawan Kumar Popli and Sandeep Popli @ Laddu Popli, was dismissed. The operative part of the said order passed in CRM-M No.15688 of 2018, is reproduced as under:-

“Briefly stated, the prosecution story is that the FIR in this case was recorded on the basis of statement of complainant – Neha wife of Vikas Sharnma (deceased), resident of Prem Gali, Fazilka, aged about 46 years in which she stated that her

deceased husband Vikas Sharma had been running a medical store and in addition to that providing taxies for hire; that her husband was under depression for last several days and on being inquired, he disclosed that on 22.3.2018, Pawan Kumar Popli and Sandeep Popli @ Laddu Popli (present petitioners), originally residents of Fazilka, resident residing at Chandigarh were working as bookies and he had lost Rs.18 lakhs by betting on cricket; that he had borrowed money from several persons, which he was unable to repay and the creditors were harassing him; that one Ishant Verma working as Drug Inspector, Fazilka had extorted money from him under threat of involving him in a criminal case of selling intoxicant medicines; that her husband had delivered her the names of several other persons, who were harassing and threatening him; that on 22.3.2018, Vikas Sharma left home; at about 7:00 p.m., he made a telephonic call to his wife – Neha - complainant saying that due to harassment suffered by him at the hands of Pawan Kumar Popli and Sandeep Popli @ Laddu Popli (petitioners) and Sahil Baghla, Gora Puneja, Babbu Chabra, Shunty Batra and Seema, he was going to commit suicide and then he actually committed suicide. After recording of formal FIR, the matter was investigated.

Apprehending their arrest in this case, the petitioners had approached the Court of Sessions seeking grant of pre-arrest bail by filing an application, however, their such request was declined by learned Additional Sessions Judge -I, Fazilka vide order dated 11.4.2018. As such, the petitioners have approached this Court asking for

the similar relief.

Notice of the petition was given to respondent – State, which put in appearance through counsel. The complainant has also appeared through counsel.

I have heard learned counsel for the parties besides going through the records.

Learned counsel for the petitioners has contended that the petitioners are innocent; that they have not committed any offence; the allegations in the FIR even if taken as correct on the face of it, those do not constitute any abetment, which is necessary ingredient of Section 306 IPC; that the petitioners are ready to join the investigation and their custodial interrogation is not necessary as no recovery is to be effected from them, therefore, they be granted pre-arrest bail.

Whereas, the request is being opposed by the learned State counsel assisted by learned counsel for the complainant submitting that the petitioners are specifically named in the FIR and in the suicide note left by the deceased, therefore, custodial interrogation of the petitioners is essential and no ground is made out to grant pre-arrest bail to them.

After hearing the rival contentions of learned counsel for the parties, I find that admittedly Vikash Sharma deceased had committed suicide. As per the prosecution case, the petitioners and others named in the FIR and in the suicide note had abetted the same. There are specific allegations of harassment against the petitioners and others. We are dealing with an application for pre-arrest bail and guilt of an accused is not being decided, therefore, the minute details are not to be taken into consideration

at this stage. As it comes out the complainant had specifically named the petitioners being responsible for the suicide of her husband. In the suicide note left by the deceased, he had named both the petitioners.

*As regards the authority referred to by learned counsel for the petitioners i.e. **Umesh Gupta Versus State, 2005(35) AIC 765**, the same does not find application to the present case due to different facts and circumstances and the context in which such observations have been made.*

*In case of **State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268**, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.*

Custodial interrogation of the petitioners is definitely required for complete and effective investigation. In case custodial interrogation of the petitioners is denied to the investigating agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely which is not called for.

Thus finding no merit in the petition, the same stands dismissed.”

After hearing the counsel for the parties, I find that the allegation of harassment against the petitioner are similar to the allegation levelled against the co-accused – Pawan Kumar Popli and Sandeep Popli @ Laddu Popli, whose anticipatory bail application has been dismissed, therefore, I find no ground to grant anticipatory bail to the

petitioner.
Dismissed.”

After hearing the counsel for the parties, I find no merit in the present petition. The anticipatory bail application of 02 co-accused namely Pawan Kumar Popli and Sandeep Popli @ Laddu Popli was also dismissed by this Court vide order dated 08.05.2018 passed in CRM-M No.15688 of 2018 and similarly, the anticipatory bail application of another co-accused namely Gurvinder Taneja @ Gora Taneja @ Gora Dhuneja was dismissed on 13.07.2018. The petitioner is named in the suicide note and there are direct allegations against the petitioner in the suicide note.

For the reasons stated hereinbefore and in view of the detailed reasons given in the orders dated 13.07.2018 and dated 08.05.2018, vide which the anticipatory bail application of the co-accused of the petitioner, has been dismissed, I find no ground to grant anticipatory bail to the petitioner and the same is accordingly dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

10.01.2019
yakub

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