

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

CRM-M-53788-2018

Date of decision: April 02, 2019

Meena

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Abhishek Sindhwani, Advocate
for the petitioner.

Mr. Pawan Garg, AAG, Haryana.

Mr. Pankaj Kaushik, Advocate
for the complainant.

RAJ SHEKHAR ATTRI, J.

Through the instant petition preferred under Section 438 of Code of Criminal Procedure, petitioner has sought anticipatory bail in case bearing FIR No.250 dated 01.10.2018, under Section 304-B of the Indian Penal Code, 1860 (for short 'IPC'), registered at Police Station Sadar Narwana.

Smt. Pooja (herein referred to deceased) was married with co-accused Sumit on 09.03.2015. Unfortunately, she found dead on 01.10.2018. The cause of death was due to consuming of poison.

FIR was lodged by her brother against the petitioner and other persons. Out of them, Sumit (husband) has been granted bail under Section 439 Cr.P.C.

The allegations against the petitioner are that she and said Sumit having illicit relations and deceased herself seen them with her own eyes. She advised not to do so but they did not mend their ways and ultimately, she committed suicide by consuming poison.

Serious allegations have been leveled against the petitioner as well as Sumit and due to their conduct, she committed suicide.

It has also been argued that the remaining family members i.e. mother-in-law Kamlesh and brother-in-law Sonu, have been declared innocent, but in the FIR allegations have been levelled against Meena and Sumit.

The remedy of anticipatory bail is extraordinary one and should be used in exceptional cases. The Hon'ble Supreme Court in ***Siddharam Satlingappa Mhetre vs. State of Maharashtra and others*** **2011 AIR (SC) 312** issued the following parameters for grant of anticipatory bail :-

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;*
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- iii. The possibility of the applicant to flee from justice;*
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.*
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.*
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.*
- vii. The courts must evaluate the entire available material against the accused very carefully. The*

court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”

After going through the facts and circumstances of the case, this court is of the view that petitioner is not entitled to the concession of anticipatory bail.

Petition stands dismissed accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

April 02, 2019
m. sharma

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