

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

220

CRM-M-53378-2019

Date of Decision:18.12.2019

Rekha

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. Rahul Deswal, Advocate,
for the petitioner.

Mr. B.S. Virk, DAG, Haryana.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.505 dated 07.05.2018 under Section 306 IPC, registered at Police Station City Karnal, District Karnal.

Learned counsel for the petitioner has referred the document, Annexure P-5 written by the deceased to SHO, Women Police Station, Karnal, making allegations of harassment against the petitioner, who was working in the office of Gagan Rana, Model Town, Karnal and the compromise so entered between the petitioner and the deceased, Annexure P-7 on 02.11.2017. He also refers to dying declaration of the deceased-Rajni. He relies upon the judgment of the Hon'ble Apex Court in **State of West Bengal Versus Indrajit Kundu and others** in Criminal Appeal No.2181 of 2009, decided on 18.10.2019, to contend that the act or conduct

suffice to constitute abetment of commission of suicide, unless those are reasonably capable of suggesting that the accused intended by such acts, the consequence of suicide. Reliance has also been placed on the judgment passed by the Hon'ble Apex Court in **Rajesh Versus State of Haryana, 2019(1) R.C.R. (Criminal) 847**. He further states that the deceased-Rajni had died on 07.05.2018 and the petitioner is in custody since September 2019.

Learned State Counsel, on instructions from ASI Gulvinder Singh, does not dispute the custody period. However, he submits that there being direct allegations, which led to commission of suicide by the deceased-Rajni, petitioner is not entitled for bail.

Heard learned counsel for the parties.

The background of the case as referred in Annexure P-5, complaint submitted by the deceased to the SHO, Women Police Station, Karnal, wherein she has made allegation that the petitioner used to harass her without any reason and thereafter subsequent compromise between the parties on 02.11.2017 refers the differences between the parties. However, in view of the judgments passed by the Hon'ble Apex Court in **Indrajit Kundu** and **Rajesh's cases(supra)**, wherein it has been held that abetment of commission of suicide is not sustainable on allegation of harassment without there being any positive action proximate to time of occurrence on the part of accused which led or compelled person to commit suicide and in order to bring case within the purview of Section, there must be case of suicide and in commission of said offence, person who is said to have abetted commission of suicide must have played active role by act of instigation or by doing certain act to facilitate commission of suicide, this

Court finds that culpability of the petitioner is yet to be established during the course of trial. Moreover, petitioner is in custody since September 2019 and trial is not likely to be concluded in the near future. Therefore, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to her furnishing bail bonds/surety bonds to the satisfaction of trial Court.

However, it is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall proceed with the trial independently without being influenced by the order of bail passed by this Court.

December 18, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No