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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 1922/2019

YASHPAL

..... Petitioner

Through Mr. Rajiv Mohan and Mr. Nipun
Arora, Advocates.

versus

STATE

..... Respondent

Through Mr. G.M.Garooqui,
APP for the State
SI Lichhman SIU-I/Crime Branch.
Mr.D.K.Sharma Adv. for
complainant.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

ORDER

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30.09.2019

Vide this application, I shall dispose of an anticipatory bail application filed by the petitioner in FIR No. 28/2018, under Section 306/34 IPC PS I.P.Estate.

Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that petitioner is serving as Head Constable in Uttar Pradesh. He has no previous record of involvement in any criminal case. He has been falsely implicated in relation to the suicide committed by Sohanvir (since deceased) on 15.11.2018. There was no intention on the part of the petitioner to make the deceased commit suicide. It is submitted that intention to humiliate the deceased cannot be equated with the intention to instigate the deceased. The only

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allegation in the suicide note was that deceased was beaten up by the petitioner and other co-accused persons. There was no instigation on the part of the petitioner. It is further submitted that the ingredients of Section 107 IPC are not fulfilled. The petitioner is ready to join the investigation. It is, therefore, prayed that petitioner be released on bail in the event of his arrest.

Ld. Counsel for the petitioner has relied upon the following case laws:-

- 1) Madan Mohan Singh vs. State of Gujarat & Anr.,(2010) 8 SCC 628;
- 2) Sanju @ Sanjay Singh Sengar vs. State of M.P. (2002) 5 SCC 371;
- 3) Roop Kishore Madan vs. State 2001 (57) DRJ 201;
- 4) Ganguly Mohan Reddy vs. State of Andhra Pradesh (2010) 1 SCC 750;
- 5) Bhausahab vs. State of Maharashtra (2018) 3 SCC 221;
- 6) Padmakar Tukaram Bhavnagare & Anr. vs. State of Maharashtra & Anr. (2012) 13 SCC 720;
- 7) Manju Garg & Ors. Vs. State, Bail application No. 1161/2012 decided on 22.03.2013, passed by Hon'ble High Court of Delhi.

Ld. APP for the State has opposed the anticipatory bail application and stated that the allegations against the petitioner are serious in nature. He has allegedly beaten the deceased which has led to the commission of suicide by him. In the suicide note, deceased Sohanvir has held Chaman Singh and Yashpal Singh responsible for his suicide and requested action against them.

I have considered the rival submissions and perused the case laws relied upon by the learned counsel for the petitioner and am of

the view that the above citations are distinguishable on the basis of facts and circumstances stated therein.

However, at the stage of anticipatory bail, the court is not supposed to analyse and examine the evidence appearing on record in detail and give a finding whether the offence alleged is made out or not. The suicide note clearly names the petitioner. Moreover, the fact that petitioner is absconding also cannot be ignored.

The prosecution version is that on 16.11.2018 at 5.53 a.m., an information was received through PCR that "in Delhi Secretariat VVIP Parking, Ct. Sohanvir has fired from the pistol." Later on, it came out that HC Sohanvir had shot himself from his service pistol. A suicide note was recovered from the spot. During investigation, it has come on record that on 15.11.2018 Chaman Singh, Tej Pal, Ompal Singh, Yashpal Singh and Deshpal Singh had gone to the residence of W.Ct. Nishu (wife of deceased). Before going there, they had assembled at the house of HC Lokender Singh. They had assembled there at the request of W.Ct. Nishu who had strained relations with her husband HC Sohanvir Singh (since deceased). On reaching there, a fight had taken place between the deceased Sohanvir Singh and the relatives of his wife Nishu. Sohanvir Singh was beaten by the above mentioned five persons in the street outside his house in public view. The local police was informed. The parties were taken to Police Station. The matter was mediated and the parties were counselled. No parties had given any complaint against each other. Thereafter, at about 10.00 p.m., the deceased went to attend his duty and at about 4.30 a.m. on 16.11.2018 he committed suicide by his service pistol.

One suicide note has been recovered in which it has been categorically stated that Chaman Singh and Yashpal Singh are responsible for his suicide and action should be taken against them.

The petitioner has been declared PO by the Ld. CMM, Tis Hazari Courts on 08.08.2019 and he is absconding. In view of above facts appearing on record and keeping in mind the suicide note which clearly names the present petitioner and further in view of the fact that petitioner has not joined the investigation and is absconding and has been declared PO and in view of the nature of allegations, no grounds are made out for grant of anticipatory bail.

The application is, therefore, dismissed.


BRIJESH SETHI, J

SEPTEMBER 30, 2019
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