

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

CRM-M-20071-2020(O&M)

Date of decision:-5.8.2020

Pallavi and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Vivek Salathia, Advocate
for the petitioners.

Mr.R.S. Thind, DAG, Punjab.

Mr.Anil Kumar Spehia, Advocate
for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

Status report not filed by the State counsel. Let the case
proceed further.

This petition under Section 438 Cr.P.C. for pre-arrest bail has
been filed by the petitioners Pallavi wife of Ashwani Kumar, aged 31
years and Vikram Gupta son of Vijay Gupta, aged about 38 years, both
accused in FIR No.0171 dated 29.6.2020 for the offences under Sections

306/34 IPC, registered at Police Station Rama Mandi, Jalandhar.

Briefly stated, the facts of the case as per the prosecution story are that, criminal machinery in this case was set into motion by complainant Rajesh Mehta aged about 53 years son of late Darshan Lal Mehta, resident of House No.596, Kapur Colony (Kazi Mandi), P.S. Rama Mandi, Jalandhar, who in his statement made to the police stated that his younger brother Ashwani Kumar was married with Pallavi (petitioner No.1) about 14-15 years ago; the couple was blessed with two children, a daughter aged about 12-13 years and a son aged about 8-9 years; Pallavi had left the matrimonial home about 2 ½ years earlier on account of some differences with her husband, in that way Ashwani Kumar was residing alone in a rented accommodation and doing labour work; he used to remain in depression; on that day i.e. 29.6.2020 Vinod Kumar, another brother of complainant told him that Ashwani Kumar had consumed some poisonous substance at about 2:00 p.m. and while being taken to Capital Hospital, Jalandhar, he died on the way; Ashwani Kumar had informed Vinod Kumar that he had kept suicide note in the cover of his mobile phone; that mobile phone was handed over by the complainant to the police. The suicide note in hindi translated in English runs as follows:

“Sir, SHO Sahib, I Ashwani Kumar @ Ashu S/o Darshan Lal, am writing my suicide note in a very sad condition that my wife Pallavi and her companion namely Vikram Gupta @ Vicky are spoiling my life. I am committing suicide due to harassment given by them and they are mentally harassing

me and due to the helplessness I am taking this step. Her parents also do not talk to her and whenever I try to talk to them regarding my wife, they used to disconnect my phone. My wife and her companion Vicky threaten me to kill again and again and I having no other alternative but to kill myself because the police is also not cooperating with me. Therefore, I request you to kindly give them punishment of hanging and my in-laws may also be arrested. I am giving mobile number of my wife and her companion. Pallavi: 9592726096, Vicky: 8146936080 and phone number of my mother-in-law is Meena Gupta 8427911216 and brother-in-law, Deepak Kumar 9815943599. Yours depressed person, dated: 29.6.2020, Sd/- Ashwani Kumar, ASHO justice be delivered to me Sir". After my death, both of them should be punished as I am very much upset. Sir, I wanted to live with my family but Vikram Gupta and my wife are not allowing me to live, hence I am going to leave this world. Sd/- Ashwani Kumar 29/6."

On the basis of this statement, formal FIR was registered.

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, Jalandhar vide order dated 10.7.2020. As such, the petitioners have approached this Court asking for similar relief.

Notice of the petition is given to respondent – State, which put in appearance through State counsel. Sh.Anil Kumar Spehia, Advocate has also put in appearance on behalf of the complainant.

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

As per the prosecution story Ashwani Kumar had committed suicide by consuming poison leaving a suicide note, which is duly incorporated in the FIR itself in which he has clearly blamed his wife Pallavi(petitioner No.1) and her companion Vikram Gupta @ Vicky (petitioner No.2) for driving him to take the extreme step of ending his life. The allegations against both the petitioners are very grave and serious.

Though learned counsel for the petitioner has submitted that there had been matrimonial dispute between Pallavi and the deceased and on account of maltreatment and harassment by the later to the former, she along with two children was residing separately and she had been moving complaints to the police in that regard, copy of such complaint being made part of the file and that no offence under Section 306 IPC is made out. But I find that these contentions are of not much significance at this stage since those may be of some help to the petitioners during the trial, but here in the present petition, guilt of the accused is not being determined and this Court is to see as to whether the petitioners have been able to make out a case for grant of pre-arrest bail or not, which as a matter of fact is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from

harassment and inconvenience and not to screen the culprits from custodial interrogation.

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 to unfold the complete story as to how and in what manner they had abetted the suicide of deceased Ashwani Kumar. 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.

5.8.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No