

202

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

**CRM-M-26557-2020 (O&M)
Date of Decision: 08.10.2020**

Naveen

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Ramnish Puri, Advocate,
for the petitioner.

Mr. Surender Singh, AAG, Haryana.

Mr. Vikas Chaudhary, Advocate,
for the complainant.

SUDIP AHLUWALIA, J. (ORAL)

The present petition has been filed under Section 438 of the Code of Criminal Procedure by the petitioner, seeking anticipatory bail in case FIR No.239 dated 23.08.2020, under Section 306 of the Indian Penal Code, registered at Police Station Kosli, District Rewari.

2. On the last date, on submission of Ld. Counsel for the petitioner, this Court had directed the Police Authorities to send up a copy of the statement of a witness, who happens to be the brother of one Payal, a friend of the deceased, ostensibly recorded during the course of investigation. This Court had further directed the State to place on record the entire material collected during investigation, for consideration today.

3. In compliance thereof, an additional Short Reply by way of Affidavit of the Deputy Superintendent of Police, Rewari, District Rewari, along with Case Diary Record (CDR), being Annexure R-1, and statement of the concerned witness named Sanjeev have been sent up, through e-mail.

4. Background of the matter is that death of the complainant's daughter Madhu took place in his house on the evening of 06.08.2020, as she had strangled herself with a fan with the help of a *chunni*, after which the complainant informed the matter to the Police Authorities, who got post-mortem of the body to be conducted. Subsequently, on 23.08.2020, the complainant lodged the FIR by stating, *"Later I found a mobile in the bag of my daughter, in which I saw the picture of one Naveen s/o Dharmender, resident of Turkiyavas, District Mahendergarh, with my daughter and he is my distant relative and we have gathered some information on our level that this Naveen instigated my daughter Madhu to commit suicide and he forced her to commit suicide. Regarding this matter an FIR should be registered and strict legal action should be taken."*

5. The petitioner happens to be the aforesaid Naveen, named in the FIR. It has been submitted on his behalf that he is a totally innocent person and has been falsely implicated in the present case, and that no action was taken on the Daily Dairy Entry drawn up immediately following the death of the deceased. Sixteen days later, pressure was mounted by the complainant party, after which, the Investigating Agency caved in and registered the FIR, without any satisfactory explanation of the intervening delay.

6. It has been further submitted on behalf of the petitioner that the allegations, at the most, disclose some sort of intimacy between the deceased

and himself, but there is no element of any positive instigation on his part, which could have driven her to commit suicide. It has also been asserted that the petitioner happens to be a student, and is younger in age to the deceased, who had already completed her Graduation, while the petitioner is still an Under-graduate.

7. This Court has perused the Police Case Diary, the observations of the Ld. Additional Sessions Judge, Rewari, who dismissed the petitioner's application for anticipatory bail, vide his impugned order, passed on 03.09.2020 (Annexure P-1), as also the photographs of the deceased, showing the last moments of her life, till she actually committed suicide by hanging herself.

8. After careful perusal of the same, this Court is of the opinion that it would be too early to conclude that there was no element of positive instigation or abetment on the part of the petitioner, which might have led the deceased to take the unfortunate decision to end her life. This is so because it transpires from the record that before killing herself, the deceased had prolonged telephonic conversations with the petitioner on the fateful day (06.08.2020) itself, when she had two conversations with him of the duration of about four and a half minutes and six and a half minutes, and also on the preceding days, on 01.08.2020, the conversation was in excess of ten minutes, on 03.08.2020, four such telephonic conversations took place, which were in excess of six minutes, about seven minutes, about nine minutes and five and a half minutes, while on 04.08.2020, the two conversations lasted ten and a half minutes and four and a half minutes. Thereafter, there were as many as eight *SMS* communications between the petitioner and the deceased on the fateful

date (06.08.2020) itself and she had sent the photographs, showing the process of hanging herself, lastly to the petitioner.

9. In this view of the circumstances, and considering the gravity of the matter involved, this Court is of the considered opinion that the petitioner cannot, at the outset, be given a clean chit. The complainant had explained the delay in lodging the FIR by saying that after the death of his daughter, he happened to chance upon the photographs and data stored in her mobile phone, which was kept in her bag, from which he could make out that there was close contact between his daughter and the petitioner, for a long time continuously on the immediate preceding days as well as on the fateful day, itself, by telephone. The fact that the deceased chose to send the photographs, showing the motions of killing herself, only to the petitioner on his mobile phone, would certainly tend to bring him within the ambit of culpability, which can be determined only after his custodial interrogation. Recovery of his cellphone is definitely called for, and it is not clear that if the photographs were actually sent on his mobile phone by the deceased, immediately before her death, why he did not report about the same to anyone, even during the intervening days, till the formal FIR was lodged by the father of the deceased.

10. Ld. Counsel for the complainant, from his side, has submitted that on the contrary, the Police Authorities have been lackadaisical in pursuing the investigation sincerely against the petitioner, since he is stated to be related to some local Police Officer.

11. This Court at this stage, is not inclined to place much credence on such submission, against the Investigating Agency, and has no hesitation in observing that statement of witness Sanjeev, which was sought to be called for

by Ld. Counsel for the petitioner on the last date, does not disclose any tangible reason to convince the Court that culpability of the petitioner in the matter of the unfortunate suicide of the complainant's daughter could be altogether ruled out.

12. For the aforesaid reasons, this would not appear to be a fit case for granting the extraordinary relief of anticipatory bail to the petitioner.

13. Dismissed.

08.10.2020

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No