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

CRM-M-4762-2021

Date of Decision: September 15, 2021

Shivam Nanda

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.J.S.Bedi,Sr.Advocate with
Mr.Vivek Salathia and Mr.Rubal Garg, Advocates
for the petitioner.

Mr.M.S.Nagra, Assistant Advocate General, Punjab.

Mr.Veneet Sharma, Advocate for the complainant.

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RAJESH BHARDWAJ, J.

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

The present petition is filed under Section 439 CR.P.C. seeking regular bail to the petitioner in case FIR No.073, dated 10.06.2020, under Section 306 IPC, registered at Police Station Majitha Road, District Amritsar.

As per the factual matrix of the case, the FIR in question was registered by Aman Verma, wherein he had alleged that he has two sons and a daughter Sapna, who is elder and 24 years of age. His daughter Sapna had friendship with Shivam Nanda and she wanted to marry him. It was alleged that she talked about the same before her parents as well. It was further

alleged that his daughter told that Shivam Nanda is no more interested in her and in case he would not marry her, she would consume some poisonous substance. However, the parents tried to console her but on 03.06.2020, Sapna consumed poison. She was admitted in the hospital and finally she succumbed to the poison and died on 10.06.2020. The complainant alleged that a suicide note was found from the pillow lying on the bed wherein the petitioner was held responsible for her death. In view of the same, a request was made to take action against the culprit.

Learned senior counsel for the petitioner submits that the petitioner has been totally falsely roped in and no offence, as alleged, is made out. He contends that from the allegations mentioned in the FIR, it is inferred that deceased-Sapna consumed poison on 03.06.2020 and she died on 10.06.2020. He further submits that despite availability of seven days with the Investigating Agency, no effort was made to record the statement of the deceased by the police itself or through Judicial Magistrate. He has further argued that the alleged suicide note is also a planted piece of evidence as the same had been recovered allegedly after consuming poison but the same was produced after the death of the daughter of the complainant, which makes the story of the prosecution totally full of doubts. Learned senior counsel has drawn attention of this Court to FSL report pertaining to the examination of suicide note. The report would show that no conclusion could be drawn after examination of the suicide note. Learned senior counsel has also placed reliance on the whatsapp chat placed on record which goes on to show that it was not the petitioner but the complainant-father himself responsible for instigating the deceased to commit suicide. He submitted that the petitioner had already provided his

mobile phone to the Investigating Agency for unravelling the truth for free and fair investigation, however, the Investigating Agency intentionally did not investigate the data received from his mobile phone as the same, in all probability, would falsify the case of the prosecution put forward by it. He vehemently contends that it is the complainant-father himself who is not providing his mobile phone for examination by the Investigating Agency. Learned senior counsel has relied upon the various precedents of Hon'ble Apex Court in support of his contentions that in overall facts and circumstances, the petitioner cannot be said to have instigated the suicide committed by the deceased and thus, incarceration suffered by the petitioner is totally illegal. He submits that young boy is languishing in jail since 16.12.2020 and he deserves to be enlarged on bail.

Mr.Veneet Sharma, Advocate for the complainant vehemently opposes the contentions raised by the learned senior counsel for the petitioner and submits that the petitioner had specific role in instigating the deceased to commit suicide. He submits that his name is specifically mentioned in the suicide note, thus, he deserves no leniency and the bail prayed for be declined.

Learned State counsel submits that investigation is already complete and charges are already framed. He submits that there are 25 witnesses cited by the prosecution but till date no prosecution witness has been examined.

I have heard learned counsel for the parties and perused the record made available.

There is no gain saying that petitioner is behind bars since

framed. Vide order dated 16.08.2021, the Court had directed the trial Court to examine the complainant on the adjourned date, i.e. 07.09.2021. However, the complainant could not be examined due to health reasons.

This Court, after examining the overall facts and circumstances of the case, finds that there are 25 witnesses, which would take considerably long time. However, investigation already stands completed. The veracity of the allegations of the parties would be ascertained only after conclusion of the trial by leading evidence by both the parties.

In the overall facts and circumstances, this Court finds that learned senior counsel for the petitioner has succeeded in making out a case for grant of bail.

Without commenting anything upon merits of the case, the present petition is allowed. The petitioner is directed to be released on bail to the satisfaction of the concerned CJM/Duty Magistrate.

September 15, 2021
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(RAJESH BHARDWAJ)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |