

104 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4924-2021
Date of Decision: 05.03.2021

SANJAY

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: Hon'ble Mr.Justice Deepak Sibal

Present: Mr.Aditya Sanghi, Advocate for the petitioner
Mr.Ashok Kumar Sehrawat, DAG Haryana

Deepak Sibal, J. (Oral)

The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail in FIR No.228 dated 02.07.2020 registered under Sections 498-A, 328, 316, 302, 34 IPC at Police Station Kanina, District Mahendergarh.

On 02.07.2020, at about 4.25 pm, a telephone call was received by the police from Sammat Hospital, Mahendergarh that Reena, wife of the petitioner, who was 7 months pregnant, had been admitted to the hospital on the consumption of Sulphas and later the police received information that Reena had died due to consumption of the aforesaid poison. Thereafter, Upender son of Deshraj filed a written complaint with the police that his sister Reena, who was pregnant, had yesterday called up the complainant and while crying had told him that she was being harassed at her in-laws house which had made her life a living hell. She further told the complainant that her in-laws were threatening to kill her if she did not leave the house. The complainant pacified his sister but about noon, on the same

day, he received a call from the petitioner asking the complainant to take his sister from her matrimonial home. When the complainant asked the petitioner to get her sister on the phone he refused to do so. Later, the complainant came to know that his sister had been admitted to Sammat Hospital, Mahendergarh. When he reached the said hospital he saw that she was critical and later died.

In his complaint the complainant specifically named the petitioner and his other relatives to have killed his sister after having given her consistent beatings, harassment and threats to expel her from her matrimonial home. He further told the police that in the past also, on being thrown out of her matrimonial home, his sister had come to live with the complainant and only after he had called the Panchayat his sister was taken back. The complainant further went on to state that when the complainant's sister had become pregnant the petitioner, petitioner's mother and petitioner's father openly proclaimed that on the birth of the child they would demand a Maruti Swift Desire Car from the complainant and that the the complainant's sister had been murdered by the petitioner and the other co-accused by giving her poison.

On the basis of the above complaint the FIR in question was registered and after investigation some of the relatives of the petitioner were found innocent. However, evidence was found to prosecute the petitioner and his mother Gaytri Devi leading to the arrest of Gaytri Devi. The petitioner evaded his arrest and this was in spite of the fact that his arrest warrants had been issued by the Trial Court.

Medical opinion with regard to the deceased's cause of death was sought by the police which revealed that she had died due to poisoning.

Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the case; the petitioner and the deceased were married for about 10 years ago and from the wedlock there were three children; the deceased had committed suicide and therefore the petitioner was being wrongly prosecuted for murder; Aluminium Phosphide being a pungent and repulsive poison is impossible to administer; the petitioner was the one who had taken the deceased to the hospital for treatment; the complainant had filed an affidavit exonerating the petitioner and that the petitioner is ready and willing to join investigation as and when called by the investigating agency.

A reading of the FIR and preliminary investigation conducted by the police reveals serious allegations against the petitioner of having murdered his wife; there are also specific allegations with regard to consistent harassment, giving of beatings and of his greediness; a recent incident of the year 2019 has also been cited by the complainant wherein it is alleged that his sister was harassed by the petitioner to the extent that she was forced to leave her matrimonial home and only after a Panchayat was called where the petitioner and his family members admitted their mistake and thereafter took the deceased back to her matrimonial home; there are specific allegations against the petitioner of having mens rea to murder his wife; preliminary investigation has resulted in the exoneration of some of the innocent relatives of the petitioner but the prosecution has found evidence to prosecute the petitioner and his mother for the murder of the petitioner's wife; medical evidence supports the prosecution's story of the deceased having died due to poisoning; the affidavit by the complainant exonerating the petitioner does not rule out exerting of influence by the

petitioner on the prosecution's star witness and that the police report on record clearly shows that the petitioner had been evading arrest.

In the light of the above, at this stage, the petitioner's plea that his wife committed suicide cannot be made the basis to grant him anticipatory bail especially when the investigation is at the initial stage.

Dismissed.

It is clarified that the above observations have been made by this Court to decide the present petition seeking anticipatory bail in which investigation is still going on and therefore these observations be not construed as opinion on the merits of the case.

05.03.2021

gk

(Deepak Sibal)

Judge

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No