

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

**CRM-M-8912-2021  
Reserved on : 10.03.2021  
Pronounced on : 12.03.2021**

**Sahil Mittal**

**...Petitioner**

**Versus**

**State of Haryana**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. S. K. Garg Narwana, Senior Advocate with  
Mr. Vishal Garg Narwana, Advocate  
for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Mahir Sood, Advocate  
for the complainant.

**ARVIND SINGH SANGWAN, J.**

Prayer in this petition, filed under Section 438 Cr.P.C., is for grant of anticipatory bail to petitioner Sahil Mittal in FIR No. 197 dated 20.11.2020 (Annexure P-1), under Section 285 IPC and Sections 27, 29, 30 of the Arms Act, 1959, registered at Police Station Jakhal, District Fatehabad.

Learned senior counsel has submitted that as per allegations in the FIR, registered at the instance of complainant Ramesh Kumar son of Nohar Chand, it is stated that petitioner Sahil Mittal had used fire arms and subsequently posted a video on Facebook, in which he is shown firing with a fire arm weapon openly on the terrace of his house with deliberate intention to threaten the complainant and his family members, who are already facing threat in light of the FIR No. 154 dated 16.10.2020, under

Sections 306, 34 of the IPC registered at Police Station Jakhal against Sitaram Mittal (father of the present petitioner) and 13 other accused persons. It is further stated that Nohar Chand, father of the complainant, committed suicide on 16.10.2020 and a group of people were harassing and blackmailing the complainant and those persons include Sitaram Mittal and Kirti Goyal. Sitaram Mittal and Kirti Goyal are on interim bail, granted by this Court, wherein it is stated that in case of any lapse on the part of accused Sitaram Mittal, the police may initiate process for cancellation of bail. It is further stated in the FIR that petitioner has caused threat to the complainant and his family members by firing bullets with a fire arm and uploading the same on a social media/Facebook. A copy of the video recording was attached with the complaint.

It is further stated in the FIR that fire arm of the accused persons be taken in custody and action be taken against Sahil Mittal, Sitaram Mittal and Kirti Goyal under the provisions of Arms Act and interim bail, granted to Sitaram Mittal and Kirti Goyal, be revoked and investigation be launched to find out the licence holder of the said gun.

Learned senior counsel, before opening the arguments, has referred to order dated 12.11.2020, passed by this Court in **CRM-M-34802-2020**, wherein Sitaram Mittal, father of petitioner Sahil Mittal, along with other accused, was granted concession of interim anticipatory bail. The operative part of the order reads as under:

“[2]. Petitioners seek anticipatory bail in case bearing FIR No.154 dated 16.10.2020 registered under Sections 306, 34 IPC at Police Station Jakhal, District Fatehabad.

[3]. Petitioners No.1 and 2 are husband and wife. Petitioner No.3 is brother of petitioner No.2. Petitioner in

CRM-M No.35831 of 2020 is Municipal Councilor from Ward No.10. Petitioner No.1 in CRM-M No.34802 of 2020 is Municipal Councilor from Ward No.4, whereas petitioner No.2 therein is not a Municipal Councilor. Petitioner in CRM-M No.35444 of 2020 is Municipal Councilor from Ward No.7.

[4]. FIR was registered at the instance of Mukesh Kumar @ Jaggu son of Nohar Chand (deceased). The complainant alleged that his wife Seema Rani is chairperson of Municipal Committee, Jakhal. His father was taking care of election prospects of his wife. On 16.10.2020, his father got ready in the morning and he went to market after informing the complainant. Complainant received a phone call from his younger brother at about 10:40 AM, who told the complainant that he had received a phone call from the office of Municipal Committee that he should reach there immediately. The complainant immediately reached the office of Municipal Committee along with his brother Ramesh. Main gate was closed. Baljit Sharma, House Tax Inspector, Jakhal came from inside and opened the gate. He informed the complainant party that the office door is locked from inside. Complainant party broke up the door and went inside and saw that his father was hanging from the fan with parna. Complainant searched the pocket of his father and found a suicide note. SHO, Police Station, Jakhal was present at the spot. Complainant entrusted two pages suicide note to the SHO. Complainant sought legal action against the persons named in the suicide note who had taken money for making his wife as chairperson or chairman and also to allow her to continue as the chairperson/chairman. The named persons were blackmailing the father of the complainant by demanding more and more money. There was a meeting on 16.10.2020 at 11:00 AM in respect of no confidence motion against the

wife of the complainant. Father of the complainant committed suicide by hanging after being fed up with such blackmailing by the named persons. The suicide note was taken out from the upper pocket of the shirt of the deceased in the presence of Mukesh Kumar @ Jaggu. The alleged suicide note reads as under:-

“Harvinder Lala, Anik Goyal (Kala)- Monika Goyal Ward No.3 MC, Kirti Ward No.4, MC Sita Mittal, Govind Ram MC Ward No.6, Suicide Note. Respected DC Sir, SP Sir, SDM Sir & DSP Sir and SHO Sir of Jakhal Mandi, I am committing suicide today on 16.10.2020. All the MC of Municipal Committee, Jakhal are responsible for my suicide. They have looted everything from me and have made me and my family beg for our bread and butter. My daughter-in-law Seema Rani had become Chairman of the Municipal Committee and some of these MCs had blackmailed me and taken money from me in which Harvinder Singh (Lala) Ward No.1 had taken Rs.20,00,000/- (Twenty Lakhs), Govind Ram MC Ward No.6 had taken Rs.17,00,000/- (Seventeen Lakhs), Swasti Rani of Ward No.7 had taken Rs.17,00,000/- (Seventeen Lakhs), Vikram S/o Raju of Ward No.8 had taken Rs.20,00,000/- (Twenty three lakhs), Vikram Saini of Ward No.9 had taken Rs.23,00,000/- (Twenty three lakhs), Amit Kumar S/o Sunil Kumar of Ward No.11 had taken Rs.20,00,000/- (Twenty lakhs) by blackmailing me in lieu of giving vote and later also again and again they took money blackmailing me and Vikas Kamra of Ward No.10 extorted Rs.43,00,000/- (Fourty three lakhs) and may Jay Maa Kali Ji punish them. I Harvinder (Lala) Ward No.1; 2. Monika Goyal & her husband Anil Kumr & her bother-in-law Satish (bhola); 4. Kirti & her

father-in-law Sitaram Mittal; 6. Govindram Bazigar; 7 Swasti Ward No.7 MC; 8. Vikram S/o Raju Baba MC 9. Vikram Sain S/o- Mahendra; 10. Vikas Kamra MC Ward No.10; 11. Amit Kumar S/o Sunil Kumar; 12. Niti Bansal & her husband Puneet Bansal Gopa; should not be left. Sir, the persons responsible for my death-Vikram S/o Raju Ward No.8 MC; Vikram Saini Ward No.9 MC; Vikas Kamra Ward No.10 MC; Amit Bindu Ward No.11 MC; Niti Bansal Ward No.12 MC; Gopa (Puneet Bansal) used to demand money from me. At last, when my everything got sold, solar plant etc., I was unable to give money. When they did not received money, they went to the other party and in connivance with them leveled false allegation on my daughter-in-law Seema Rani and are now getting the voting done today. Sir, they have looted my everything. The master mind are Chairman candidate Monika Goyal Ward No.3 MC and her husband Anil Kumar, Kirti Goyal from Ward No.4 and her father-in-law. The 9 MC who had given affidavit against Seema Rani, in that also they had leveled extremely dirty allegations that Seema Rani by deceived and defrauded Municipal Committee but Sir, she has never committed any fraud. They have leveled all false allegations. Respected Sir, Monika Goyal from Ward No.3 MC and her husband Anil Kumar, Kirti Goyal from Ward No.1 and her husband Puneet Bansal (Gopa) and Vikas Kamra from Ward No.10 have threatened to kill me and my family from many other people who are also responsible for my death, the names of which will be disclosed by my children. Monika Goyal Ward No.3 & her husband have even threatened us to the extent that if you don't quit Chairmanship on 16.10.2020, then we

well kidnap the whole family. Respected Sir, Harvinder (Lala) Ward No.6; Govind Ram Ward No.8; Vikram S/o Raju; Ward No.9 Vikram Saini; and Amit Kumar Ward No.11 had even told me yesterday that if you want to save chairmanship then give us 20-20 lakhs rupees, but now I don't have money anymore. Sir, these accused persons be given strict punishment. They all are responsible for my death i.e. all 12 MC. Further my family be provided protection for life. If these greedy MC will not stop, then my whole family can commit suicide. Persons responsible for my suicide 1. Ward No.3 Monika Goyal & her husband Anil Goyal; 2. Ward No.4 Kirti Goyal & her father-in-law Sitaram Mittal; 3. Ward No.6 Govindram Bazigar; 4. Ward No.8 Vikram Baba S/o Raju; 5. Ward No.9 Vikram Saini S/o Mahendra Singh; 6. Ward No.10 Vikas Kamra; 7. Ward No.11 Amit Kumar (Vintu); Ward No.12 Niti Bansal & her husband Puneet and Harvinder Singh (Lala) from Ward No.1.”

[5]. Learned counsel for the petitioners submitted that petitioners No.2 and 3 have nothing to do with the FIR of Municipal Committee. There are no allegations of taking money or blackmailing the deceased or the wife of the complainant for money or for votes. Petitioners No.2 and 3 have no connection with any vote or no confidence motion in respect of election of the wife of the complainant as chairperson of the Municipal Committee. Petitioner No.3 is claimed to be living separately from petitioners No.1 and 2. The allegations of conspiracy to get petitioner No.1 elected as chairperson are not forthcoming by way of any documentary evidence. They were not involved in earlier writ petition filed against the election of the wife of the complainant. No confidence motion had not been put to vote and there was no vacancy of

chairperson/chairman/president. Deceased Nohar Chand had earlier threatened the son of the Municipal Councilor in the month of June 2020 to implicate them falsely in some case. First no confidence motion was moved by the Municipal Committee led by Vikas Kamra (petitioner in CRM-M No.34831 of 2020). The complaint was made to the Deputy Commissioner in respect of aforesaid threats on 10.06.2020.

[6]. Learned counsel further submitted that the alleged suicide note is undated and its authenticity is yet to be proved. Even if, it is taken to be a suicide note, the same would not advance any complicity in terms of offence under Section 306 IPC as the requirement of law is not satisfied. In order to constitute offence under Section 306 IPC, there has to be a concerted effort on behalf of the accused to drive/abet the commission of offence till last resort. The victim has to be brought to such a juncture where he has no option, but to commit suicide. The alleged suicide has not been proved as yet. There are no allegations of demand of money by any of the petitioner(s) by voting in favour of Seema Rani either at the time of her election as chairperson or at any subsequent stage. The meeting dated 16.10.2020 was ordered by the Deputy Commissioner and the meeting was called by the Sub Divisional Magistrate by following all legal requirements. The allegations of abetment cannot sustain in the context of holding of such a meeting. Mere mentioning of the name of the Municipal Councilors in the suicide note in itself is not sufficient to charge them for abetment under Section 306 IPC as there is no overtact of any abetment except to allege blackmailing by them. There are no allegations of torture or mens rea to drive the deceased to do suicide. A death by suicide has connectivity with the desire object of abettor with intention. Such intention should have instigated the victim to do such an extent that he had no further option, but to commit

suicide. All these things should be gathered by positive act of abettor. There has to be a close proximity of the abettor and the deceased and in the absence of any positive action with reference to time of occurrence on the part of the accused, which led the victim to commit suicide, there cannot be any abetment. The act of suicide has to be in furtherance of the act of abetment. There are no allegations of any such instigation on the part of the petitioners by virtue of which it can be presumed that the petitioners have abetted or instigated the deceased to commit suicide. The live link between the act committed by the petitioners has to be brought on record which drove the deceased to commit suicide.

[7]. The deceased himself was facing prosecution in FIR No.157 dated 01.12.2019 registered under Sections 420, 406, 506 and 120-B IPC at Police Station Moonak. He was facing allegations of cheating for a sum of Rs.41 lacs. The deceased was also facing huge financial crisis as his account had already been declared as Nonperforming Asset. During the voting of first no confidence motion, a complaint was filed against him and his family members for giving threats.

[8]. Learned counsel for the petitioners in CRM-M No.34802 of 2020 submitted that petitioner No.1 therein had filed CWP No.8197 of 2019 and petitioner No.2 therein is not even a Municipal Councilor. There are no allegations of taking money or blackmailing against the petitioners. Petitioner No.2 has nothing to do with the election of the wife of the complainant as president/chairperson, nor has any connection with no confidence motion. In fact, election of Municipal Committee, Jakhal was held on 16.12.2018. 13 members were elected as Municipal Councilors. Wife of the complainant was elected as chairperson/president/Municipal Councilor on 02.02.2019.

Petitioner No.1 Kriti Goyal was not present as she was opposing the wife of the complainant. After election, petitioner No.1 along with four other Municipal Councilors filed CWP No.8197 of 2019 for setting aside the election of the wife of the complainant and vice president of Municipal Committee. The writ petition was dismissed in September 2020.

[9]. On 04.06.2020, 9 Municipal Councilors including petitioner No.1 Kirti Goyal approached the Deputy Commissioner, Fatehabad for convening a special meeting of no confidence motion against the wife of the complainant. The said meeting was ordered to be convened on 18.06.2020 for considering no confidence motion under Haryana Municipal Election Rules. On 25.06.2020, a notice was issued to the wife of the complainant by Sub Divisional Officer (Civil), Tohana and all other Municipal Councilors for convening a special meeting on 14.07.2020 for consideration of no confidence motion. Wife of the complainant filed CWP No.9434 of 2020 against petitioner No.1 Kirti Goyal and 8 other Municipal Councilors for quashing the process of no confidence motion. Vide order dated 13.07.2020, High Court quashed the order dated 18.06.2020 passed by the Deputy Commissioner and notice dated 25.06.2020 passed by SDO (Civil), Tohana. Thereafter, on 03.09.2020, petitioner No.1 Kirti Goyal and 8 other Municipal Councilors again approached the Deputy Commissioner, Fatehabad for convening a meeting for initiating the process of no confidence motion against wife of the complainant. On 26.09.2020, SDO (Civil), Tohana issued notice to all 13 Municipal Councilors to be present for special meeting for bringing no confidence motion against the wife of the complainant. On 29.09.2020, SDO (Civil), Tohana again issued notice to all the Municipal Councilors for postponing the meeting dated 12.10.2020 to 16.10.2020 at 11:00 AM. Wife of the complainant filed

CWP No.15425 of 2020, challenging the aforesaid notice dated 29.09.2020 of no confidence motion. Wife of the complainant also sought interim prayer for stay in the said writ petition. The application for interim stay was dismissed vide order dated 15.10.2020. The aforesaid writ petition is pending for 11.01.2021.

[10]. Learned counsel further submitted that on 16.10.2020, office of Municipal Committee, Jakhal was habited with number of police officials and staff of Municipal Committee. Office was barricaded and Section 144 Cr.P.C was imposed. No person except the Municipal Councilors were allowed to enter the office as voting for no confidence motion was to be held. Father of the complainant illegally entered the office despite presence of numerous police persons. Since the petitioners and other Municipal Councilors were availing their legal remedy, therefore, such an act cannot be termed as instigation to the deceased to commit suicide in terms of Section(s) 306/34 IPC.

[11]. Learned counsel for the petitioner in CRM-M No.34831 of 2020 submitted that the suicide note is undated and is not signed by the deceased. The police has nominated 14 persons. The authenticity of the suicide note is yet to be established. Petitioner Vikas Kamra @ Vikas Kumar had already moved a complaint to Deputy Commissioner, Fatehabad on 10.06.2020 in respect of threat given by the deceased for committing suicide in case, they moved no confidence motion against his daughter-in-law i.e. wife of the complainant. Learned counsel adopted the arguments of learned counsel for the petitioners in CRM-M No.34322 of 2020 and CRM-M No.34802 of 2020.

[12]. Learned counsel for the petitioner in CRM-M No.35444 of 2020 has also adopted the same arguments.

[13]. Per contra, learned State counsel duly assisted by

learned counsel for the complainant opposed the prayer on the ground that the petitioners have been named in the suicide note. All the Municipal Councilors are responsible for the suicide of the deceased Nohar Chand.

[14]. As per the suicide note, Municipal Councilors namely Harvinder Singh (Lala), Govind Ram, Swasti Rani, Vikram, Vikram Saini, Amit Kumar and Vikas Karmar have allegedly received huge amount in lacs for casting their votes in favour of the wife of the complainant i.e. daughter-in-law of the deceased. The total amount allegedly paid to the aforesaid Municipal Councilors is about Rs.1,40,00,000/-. The source of the aforesaid amount is yet to be established. The allegations made by the Municipal Councilors against the working of the president/chairperson i.e. wife of the complainant and allegations of misappropriation would be enquired into by the competent authority. The allegations of the complainant party as well as all the Municipal Councilors are yet to be established with reference to material to be brought on record by the parties at the relevant time.

[15]. At this stage, it would be appropriate to direct the petitioners to appear before the SHO/Investigating Officer to join investigation on 24.11.2020 at 11.00 a.m. and in the event of their arrest, they shall be enlarged on ad interim bail, subject to their furnishing adequate bail bonds/surety bonds to the satisfaction of Arresting Officer. However, petitioners shall abide by the conditions as envisaged under Section 438(2) Cr.P.C. Petitioners shall cooperate in the investigation. Single instance of incorporation by the petitioners would give rise to cancellation of interim bail in accordance with law.”

Learned senior counsel further submitted that father of the complainant, namely Nohar Chand, had committed suicide when a ‘No Confidence Motion’ was moved against the Chairperson of Municipal

Committee, Jakhal, namely Sima Rani, who is the sister-in-law (Bhabhi) of the complainant. It is further submitted that almost all the members of the Municipal Committee, Jakhal, who were in fact availing their legal right, have been nominated as accused in the aforesaid FIR.

Learned senior counsel further submitted that in fact the present FIR has been registered against the petitioner just to put pressure as no such incident has taken place and the petitioner has neither used any fire arm nor uploaded the video of the same on Facebook.

Learned senior counsel further submitted that the petitioner has even not recorded any such video, which is relied upon by the complainant.

It is further submitted that the petitioner is presently working in New Delhi and has been residing there since long and, therefore, he is separate in mess with his father Sitaram Mittal, who is one of the accused in FIR No. 154.

Learned senior counsel further submitted that the police has registered the present FIR under Section 285 IPC read with Sections 27, 29, 30 of the Arms Act, wherein the maximum punishment provided under Section 285 IPC is six months or fine of Rs. 1,000/- or both and the offence is bailable. It is further submitted that the punishment provided under Section 27 of the Arms Act shall not be less than three years and the punishment under Sections 29 is three years or with fine or with both and under Section 30 is upto six months or fine.

Learned senior counsel further submitted that a perusal of the FIR nowhere reflects that the petitioner has either extended any threat to complainant or had any intention of firing any shot towards the complainant. It is further submitted that the residence of the father of the

petitioner and that of complainant is 500 feet away and it is not the case of the complainant that he himself recorded any such video and, therefore, the copy of the CD, which has been supplied by the complainant to the police, is yet to be proved as per provisions of Section 67-B of the Evidence Act.

Learned senior counsel further submitted that the petitioner has no such history of involvement in any such or similar activity.

Learned State counsel has filed the affidavit of DSP, Toahan, and submitted that upon receiving the complaint, screenshots were taken from the video supplied to police. The factual position and the fact of registration of aforesaid FIR No. 154 are not denied by learned State counsel, however, it is stated in the affidavit that as per video CD, the petitioner was seen firing shots from a gun on the terrace of his house and upon checking the record of the Police Station Jakhal, it was found that no weapon is registered in the name of the petitioner, hence, the offences under the Arms Act were added.

Learned State counsel, assisted by learned counsel for the complainant, further submitted that the custodial investigation of the petitioner is required to effect the recovery of the weapon.

In reply, learned senior counsel has submitted that in the investigation of the police as well as in the aforesaid affidavit of DSP, Toahan, neither it is verified that the original recording of the video was supplied by the complainant nor it has come that the petitioner ever extended any threat to complainant. It is further submitted that even a bare perusal of the FIR shows that no such allegations are made.

Learned senior counsel further submitted that the police has not verified as to who has posted the video on the social media and there is no

verification regarding the date when the CD was prepared or the video was uploaded.

Learned senior counsel further submitted that even as per the provisions of Section 25 of the Arms Act, an offence is committed where any gun fire is made in public gatherings, religious places, marriage parties or other functions, whereas even as per the allegations in the FIR, the fire were allegedly shot on the terrace of the house of the petitioner and there was no person from the public and the house of the complainant is 500 feet away from there.

Learned senior counsel has lastly argued that it is not the case of the complainant that he has himself made any recording of the incident and, therefore, such evidence is to be proved during the course of trial.

After hearing learned counsel for the parties, without commenting anything on the merits of the case, considering the aforesaid submissions made by learned counsel for the parties, I find force in the arguments raised by learned senior counsel.

Accordingly, the present petition is allowed and the petitioner is granted concession of anticipatory bail, subject to conditions envisaged under Section 438(2) Cr.P.C.

However, it will be open for the Investigating Officer to call upon the petitioner to join investigation by issuing him a written notice in this regard.

**12.03.2021**

*Waseem Ansari*

**(ARVIND SINGH SANGWAN)  
JUDGE**

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*