

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

221

**CRM-M-11426-2021
Decided on : 15.12.2021**

Rajbir Singh

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Amit Arora, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab
assisted by ASI Rajinder Singh

MANJARI NEHRU KAUL, J. (Oral)

The instant petition has been filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 298, dated 03.12.2020, under Section 306 of IPC (added later on Section 201 of IPC), registered at Police Station City Tarn Taran, District Tarn Taran (annexed as Annexure P-1).

Learned counsel submits that the petitioner has been falsely implicated in the case in hand for allegedly abetting the suicide of his pregnant wife Geetinder Kaur, minor daughter Gurnoor Kaur and mother-in-law Pritam Kaur (hereinafter referred to as 'deceased'). Learned counsel while inviting the attention of this Court to the allegations levelled in the FIR in question, which was got registered at the instance of Gurmeet Kaur (maternal grandmother of deceased Geetinder Kaur), submits that only general and vague allegations have been levelled against the petitioner of having abetted the suicide of the aforementioned three persons.

Learned counsel further submits that since there was no specific instigation reflected in the FIR in question, the essential ingredients to attract the mischief of an offence under Section 306 of IPC, were clearly amiss in the case in hand. Further submits that even as per Section 107 of IPC, a person can be held liable for abetting only, if some material is brought on record that he had facilitated the commission of suicide. He further submits that since there was no *mens rea* spelt out in the FIR in question, he could not in any way be held liable for the suicide of his wife, daughter and mother-in-law.

Learned counsel for the petitioner has submitted that in fact it was on account of routine wear and tear of marriage that his wife had ended her life and he, thus, had no role, whatsoever, to play in the crime in question. Learned counsel while relying on ***M. Mohan Vs. State Tr. Dy. Supdt. of Police, 2011(3) SCC 626*** and ***Gangula Mohan Reddy Vs. State of Andhra Pradesh, 2010(1) R.C.R.(Crl.) 603***, has submitted that the Hon'ble Supreme Court had also categorically held that in the absence of any *mens rea* and any positive act on the part of the accused, a person could not be held liable for abetting suicide. A prayer was, therefore, made to extend the concession of bail to the petitioner, as he had been in custody since 03rd December, 2020 and the prosecution evidence was yet to commence.

Per contra learned State counsel while vehemently opposing the prayer and submissions made by the counsel opposite, has submitted that all the deceased consumed poison on account of continuous acute harassment and humiliation heaped upon them by the petitioner, who would always be suspecting the character of his deceased wife. Learned State counsel has submitted that deceased Geetinder Kaur i.e. wife of the

accused, was carrying a child and was in an advance stage of pregnancy, when she along with her daughter & mother committed suicide. He has further submitted that just one day prior to the occurrence in question, deceased Pritam Kaur had telephoned her mother i.e. the complainant and narrated to her about the continuous humiliation being heaped by the petitioner on them. Still further, deceased Pritam Kaur also told her mother that being fed up with the continuous mental torture being meted out, they wished to finish off the entire dispute by consuming poison. Learned State counsel has further submitted that on the following day itself, all the three, deceased, ended their life being fed up of the harassment meted out to them.

Learned State Counsel has also submitted that the conduct of the petitioner soon after the occurrence in question, of preferring to take the deceased to a hospital at Amritsar and not in the near vicinity despite being fully aware about the advance stage of the pregnancy of his wife, nailed him further in the crime in question. Learned State counsel has apprised the Court that the prosecution evidence is due to commence on 23rd December, 2021 and the trial shall not take much time to conclude, as only 17 prosecution witnesses are cited, out of whom most are formal in nature. A prayer was, therefore, made for dismissal of the instant petition.

I have heard learned counsel for the parties and perused the material on record including the case laws on which learned counsel for the petitioner has placed reliance.

There can be no doubt that *mens rea* is indeed one of the essential ingredients which has to be considered with respect to the abetment of a thing as per the provisions of Section 107 of IPC and

Section 306 of IPC, however, whether or not, the *mens rea* to abet the suicide of the deceased in the case in hand was there or not, would be a matter to be considered and appreciated after the evidence has been adduced by the respective parties and cannot be gone into while deciding a petition for grant of bail under Section 439 Cr.P.C. Still further, it would not be out of context to observe that in the case in hand, *prima facie* instigation can also be inferred, where the petitioner had, by his acts or omission created such circumstances, that all the three deceased were pushed against the wall and left with no other option but to end their lives. As already observed earlier, deceased Geetinder Kaur was in an advance stage of her pregnancy, as she was to deliver just a couple of days later, *prima facie*, leaves no manner of doubt that she was pushed to such an extent that even before she could welcome her child in the world, she chose to call it a day in the wake of extreme mental torture and cruelty inflicted by none other than her husband i.e. petitioner.

This Court does not deem it appropriate to extend the concession of bail to the petitioner in view of the *prima facie* allegations levelled in the FIR in question. Petition stands dismissed. It is, however, made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merit of the case.

(MANJARI NEHRU KAUL)
JUDGE

December 15, 2021

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No