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

CRM-M-13805-2021

Date of decision : 16.11.2021

Ajay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Saleem Ahmed, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Munish Behl, Advocate for the complainant.

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.188 dated 24.05.2020 registered under Sections 306 and 34 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Sadar Ballabgarh, District Faridabad.

On 25.03.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“Learned counsel for the petitioner submits that Mohit Yadav committed suicide by consuming some poisonous substance. The allegation that the deceased

was given merciless beating by the accused on 22.05.2020, which compelled the deceased to commit suicide, the matter is to be established during the course of trial. Moreover, the allegation of beating is of dated 22.05.2020, whereas the deceased committed suicide on 24.05.2020.

Notice of motion.

At this stage, Mr. Munish Behl, Advocate, has put in appearance and accepts notice on behalf of the complainant. He has opposed the bail application of the petitioner on the ground that it is because of merciless beating given by the petitioner, the deceased committed suicide.

Adjourned to 24.05.2021.

Meanwhile, in the event of arrest of the petitioner, he shall be released on ad interim bail to the satisfaction of the arresting officer. However, the petitioner shall join the investigation as and when directed by the investigating agency and shall abide by the terms and conditions laid down under Section 438(2) Cr.PC.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 25.03.2021, the petitioner has joined the investigation and has further submitted that in the present case, offence under Section 306 of the IPC is not made out inasmuch as the alleged beating is stated to have been given on 22.05.2020 and the deceased had committed suicide after two days of the incident i.e. on 24.05.2020. It is also argued that there was no complaint given by the deceased even with respect to the said incident and the FIR had been registered by the father of the deceased, which cannot be taken on face

value. It is also argued that there is no suicide note of the said deceased. It is submitted that at any rate, even if the allegations made in the FIR are taken on face value, then also, it cannot be stated that the petitioner had instigated the deceased to commit suicide.

Learned counsel for the petitioner has relied upon a judgment of a Coordinate Bench of this Court titled **Vishal and another Vs. State of Haryana**, reported as **2021 (2) RCR (Criminal) 542**, to contend that in such like cases, the provision of Section 306 of the IPC is not attracted.

Learned counsel for the State, on instructions from SI Naresh Kumar, has submitted that the petitioner had joined the investigation on 22.04.2021 and is not required for any further custodial interrogation.

Learned counsel for the complainant has, however, opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that as per the FIR, the petitioner alongwith other persons had beaten up the deceased and after that, the deceased had committed suicide.

Keeping in view the abovesaid facts and circumstances, moreso the fact that in the present case, the petitioner has joined the investigation in pursuance of order dated 25.03.2021 passed by the Coordinate Bench of this Court and the fact that neither there is any complaint made by the deceased with regard to the incident nor there is any suicide note and the fact that the deceased had committed suicide on 24.05.2020 after two days from the date of said alleged incident of beating i.e. 22.05.2020 and it would be a debatable issue as to whether

even on the basis of allegations made in the FIR, the petitioner could be liable under Section 306 of the IPC, the interim order dated 25.03.2021 is ordered to be made absolute.

Accordingly, the present petition is allowed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

16.11.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No