

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208/2)		Date of Decision: 28.01.2021 CRM-M-15827 of 2020
Kamaljeet Kaur	Versus	...Petitioner
State of Punjab		...Respondent
2)		CRM-M-16610 of 2020
Gurpreet Singh	Versus	...Petitioner
State of Punjab		...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Hakam Singh, Advocate,
for the petitioner in both the petitions.
Mr. Amit Mehta, Sr. DAG, Punjab
Mr. Yogesh Goel, Advocate, for the complainant.

Amol Rattan Singh, J. (Oral)

Case heard by video conference:-

By these two petitions, filed under the provisions of Section 438 of the Cr.P.C., the petitioners in both the petitions seek the concession of anticipatory bail, upon FIR no.0044 dated 25.02.2020, having been registered at Police Station Focal Point, District Ludhiana, alleging therein the commission of offences punishable under Sections 306 and 115 of the IPC, (with Section 115 of the IPC deleted subsequently).

On June 19, 2020, the following order had been passed in CRM-M-15827 of 2020:-

“All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19

Pandemic.

By this petition, the petitioner seeks the concession of anticipatory bail upon FIR no.44, dated 25.2.2020, having been registered against her at Police Station Focal Point, Police Commissionerate Ludhiana, alleging therein the commission of offences punishable under Sections 306 and 115 of the IPC (with Section 115 of the IPC deleted later on).

Learned counsel for the petitioner submits that as a matter of fact the suicide committed by the deceased has nothing to do with any act of the petitioner, because the deceased, two months earlier also, in December, 2019, had attempted to commit suicide, in support of which contention he points to the photographs annexed as Annexure P-7 collectively with the petition, with him also submitting that there is also video footage of that attempt.

Notice of motion.

Mr.H.S.Sullar, learned DAG, Punjab, accepts notice at the asking of the court, he already having advance notice of the petition.

He submits that he has received instructions to the extent that a dying declaration of the deceased was also recorded by the JMJC/Duty Magistrate, but which is lying in a sealed cover with that court.

That being so, adjourned to 6.7.2020. The learned Sessions Judge, Ludhiana, is directed to have the seal of the said report opened in his presence and a copy of the said dying declaration sent to this court by the next date of hearing, with the original to be thereafter kept in a sealed cover in the office of the Sessions Judge himself.

In the meanwhile, till the next date of hearing only and specifically at this stage, the petitioner is directed to join investigation and upon her so joining and complying with all conditions stipulated in Section

438(2) of the Cr.P.C., if she is sought to be arrested, she shall be released on bail, on her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Ilaqa Magistrate.

If the investigating officer does not actually join the petitioner in investigation, she would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join her in investigation, in terms of the order of this court.

The petitioner would also produce before the investigating officer the video recording that she has with her of the earlier alleged attempt to commit suicide by the deceased, with learned State counsel to take instructions as to whether any complaint with regard to that attempt was made to the police, and if so, the result thereof.”

Thereafter, on November 03, 2020, the following order had been passed in CRM-M-16610 of 2020:

“This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

List on 28.01.2021.

To be listed along with CRM-M-15827-2020.

In the meanwhile, petitioner is directed to join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to the satisfaction of the Arresting Officer/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions as envisaged under Section 438(2) Cr.P.C.”

Today, learned State counsel, on instructions from ASI Jagjeet

Singh, submits that the petitioners in these two petitions have joined investigation and presently at least their custodial interrogation is not required.

As regards the direction given by this court on 06.07.2020 in CRM-M-15827 of 2020, that the Deputy Commissioner of Police would look into the allegation against ASI Gurmeet Singh, Police Post Ramgarh, Police Station Sahnewal, a reply of the DCP (Detective), Ludhaina, is on record, giving therein the entire history of the dispute and eventually stating that as per the enquiry conducted, the aforesaid ASI Gurmeet Singh was not found to be guilty of having harassed the petitioner.

Learned counsel for the petitioners, on the other hand, submits that in fact no audio recording (as has been referred to in the order dated 06.07.2020) was produced by the complainant, on the ground that the mobile phone in which it was recorded was no longer available.

Mr. Goel, learned counsel for the complainant, submits that reply of the DCP does not take into account the statement of the deceased, recorded under the provisions of Section 164 of the Cr.P.C. He also submits that the petitioners, in the aforesaid circumstances do not deserve to be admitted to bail.

Having considered the matter, what this court is obviously not to lose sight of, is that these are petitions filed by the accused seeking to be admitted to bail in case they are sought to be arrested in the context of the FIR in question. This court having directed them to join investigation and ordered that they be admitted to bail in case they are sought to be arrested,

and eventually today, learned State counsel having submitted on instructions from the aforesaid police official (ASI Jagjeet Singh) that their custodial interrogation is not required, there would be no reason for this court to direct, in these petitions at least, that the accused be arrested.

That being so, without making any comment on the actual merits of the case, whatsoever, since the investigating agency itself does not require the custodial interrogation of the petitioners, these petition have in fact been rendered infructuous and are disposed of as such.

However, if the petitioners' custodial interrogation is required at any stage hereinafter, in the context of the FIR in question, they would be given 10 days notice before arrest, duly shown to be served upon them.

Naturally, if the complainant is aggrieved in any manner, of lack of proper investigation, he would be always at liberty to avail of his remedy as per law.

A copy of this order be placed on the file of the other connected matter too.

28.01.2021
vcgarg

(AMOL RATTAN SINGH)
JUDGE

Whether reasoned/speaking: Yes
Whether reportable: No