

**203-a IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.23510 of 2021

Date of decision : September 27, 2021

Hemant Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

(Through Video Conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Bipan Ghai, Sr. Advocate with
Mr. Amandeep Singh Manaise, Advocate and
Mr. Deepanshu Mehta, Advocate for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

The petitioner is seeking anticipatory bail in FIR No.31 dated 25.05.2021, registered under Sections 306 and 34 IPC at Police Station Dhar Kalan, District, Pathankot.

Learned counsel for the petitioner contends that the petitioner has joined investigation in terms of order passed by this Court dated 18.06.2021. Order dated 18.06.2021 is as under:-

“The present petition has been filed under Section 438 Cr.P.C. for the grant of anticipatory bail to the petitioner in respect of FIR No.31 dated 25.05.2021, under Sections 306 and 34 IPC, registered at Police Station Dhar Kalan, District Pathankot.

Learned counsel for the petitioner argues that the allegation alleged against the petitioner is that he has harassed the deceased Rajeev Badan, who was his real brother which lead the deceased to commit suicide. Learned counsel for the petitioner submits that the harassment according to the FIR relates to non-release of share of the deceased in the property. Learned counsel for the petitioner

argues that deceased was demanding his share not from the petitioner, but the same was being demanded from his father, hence, the allegations of harassment are, prima facie, incorrect so as to infer that the deceased committed suicide due to the said act. Learned counsel for the petitioner further submits that even if the deceased had any right in the property, which was being held by his father, the deceased could have availed the legal remedy available to him and non-grant of the share in the property by the father cannot be treated as a ground for harassment and that too at the hands of the petitioner so as to lead him to commit suicide. Learned counsel for the petitioner submits that co-accused, against whom also the similar allegations have been alleged, has already been granted the benefit of bail by this Court while passing the order dated 16.06.2021 in CRM-M-23206-2021.

Notice of motion for 27.09.2021.

Mr. Sandeep Singh Deol, DAG, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition accepts notice on behalf of respondent-State and Mr. Ashish Sharma, Advocate, who has also joined the proceedings through video conference, appears notice on behalf of the complainant.

Learned State counsel submits that there are allegations of beating given by the present petitioner and his wife to the deceased.

Learned counsel appearing on behalf of the complainant submits that the present case, is a case of murder and not of suicide. Learned counsel for the complainant further submits that factual aspect, which had led to the death of the deceased indicates that he was murdered and is not at all a case of suicide and therefore, the petitioner be not granted the benefit of anticipatory bail.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

From the FIR, it is clear that the death of the deceased Rajeev Badan is being treated as a suicide as of now and the allegation against the petitioner is that harassment being meted out by the petitioner to his brother of not giving the deceased his share in the property led to the suicide. The non-grant of share in the property to the deceased is being alleged as harassment. Admittedly, the property which was

being demanded from the father by the deceased and not from the present petitioner, who is his brother. Deceased was living separately with the family and was not living as a joint family with the petitioner and family. The co-accused has already been granted the benefit of anticipatory bail against whom also the similar allegations have been alleged on 16.06.2021 while passing order in CRM-M-23206-2021.

As far as the arguments of learned counsel for the complainant that the present is a case of murder, the same cannot be taken into consideration, as the FIR is only under Section 306 IPC, therefore, the said argument is beyond the pleadings as well as the allegations alleged against the petitioner in the FIR, hence, cannot be accepted at this stage.

The petitioner is directed to join the investigation forthwith. In the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer/Investigating Officer on his furnishing bail bonds/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer subject to the following conditions:-

(i) That he shall make himself available for interrogation by the police officer as and when required.

(ii) That he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the said facts to the Court or to any police officer.

(iii) That he shall not leave India without prior permission of the Court.

(iv) That he shall abide by all the conditions as enshrined under Section 438(2) Cr.P.C. ”

Learned State counsel, who has also joined the proceedings through video conference, on instructions from ASI Arun Kumar, states that in terms of the order of this Court reproduced before, the petitioner has joined the investigation and no further interrogation is required at this stage.

Learned counsel for the petitioner undertakes that petitioner will join investigation and also cooperate with the investigating agency in

case he is required for the same in future as well.

In view of the above, the order dated 18.06.2021 granting interim bail to the petitioner is made absolute.

However, the petitioner shall abide by the conditions stipulated under Section 438(2) Cr.P.C. He shall also join investigation as and when called upon to do so.

In case at any given point of time hereinafter, it is felt by the investigating agency that petitioner is required for the investigation but is not cooperating, they will be at liberty to approach this Court for passing appropriate orders.

The petition stands disposed of.

(HARSIMRAN SINGH SETHI)
JUDGE

September 27, 2021

sarita

Whether speaking / reasoned Yes

Whether Reportable: No