

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

CRM-M-No.25098 of 2021 (O&M)

DATE OF DECISION: 12.11.2021

Geeta TiwariPetitioner

versus

State of PunjabRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Amit Chaudhary, Advocate for the petitioner

Mr. Sandeep Vermani, Addl. AG Punjab

ALKA SARIN, J.

Heard through video conferencing.

This is the second petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in FIR No.17 dated 30.01.2021 under Sections 306, 34 of the Indian Penal Code, 1860 (IPC) registered at Police Station Sahnewal, Distt. Police Commissionerate, Ludhiana. The first petition being CRM-M-18583-2021 was dismissed as withdrawn on 20.05.2021.

Learned counsel for the petitioner would contend that the petitioner has been in custody since 30.01.2021. It has further been

contended by the learned counsel for the petitioner that the suicide note per se could not involve the petitioner in the offence punishable under Section 306 IPC because it provides for abetment of suicide. Learned counsel has further contended that “abetment” has been defined in Section 107 IPC, and in the present case none of the ingredients of “abetment” are attracted. It is therefore, contended that the ingredients of Section 107 IPC are not made out nor any Mens Rea can be spelled out from the FIR. The learned counsel has further contended that the charges were framed on 12.07.2021 and the statement of the complainant already stands recorded.

The learned counsel for the State has vehemently opposed the grant of bail on the ground that name of the petitioner was mentioned in the suicide note of the deceased.

I have heard the learned counsel for the parties.

Section 107 IPC reads as under :-

“107.Abetment of a thing - A person abets the doing of a thing, who -

(First) - Instigates any person to do that thing; or

(Secondly) - Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(Thirdly) - Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1 - A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is

bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2 - Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitate the commission thereof, is said to aid the doing of that act.”

In the present case the learned counsel for the petitioner has contended that neither the ingredients of Section 107 IPC are made out nor, from the perusal of the FIR, any Mens Rea is spelled out. Without commenting on the merits of the case, keeping in view the fact that the petitioner has been in custody since 30.01.2021 and the statement of the complainant already stands recorded, no useful purpose would be served by keeping the petitioner in custody any longer. Hence, I deem this to be a fit case for grant of regular bail to the petitioner. The petitioner is directed to be released on bail subject to her furnishing bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/Duty Magistrate/Trial Court concerned.

However, the Prosecution will always be at liberty to apply for cancellation of bail in case the petitioner is found to be misusing the concession of bail in any manner.

It is also made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

Disposed off.

(ALKA SARIN)
JUDGE

12.11.2021
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NOTE :

Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO