

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

CRM-M-25464-2021(O&M)

Date of decision:-29.7.2021

Sudha @ Babli

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Neeraj Yadav, Advocate
for the petitioner.

Mr.Karan Garg, AAG, Haryana.

Ms.Harshita, Advocate
for the complainant.

H.S. MADAAN, J.

Case taken up through video conferencing.

This petition under Section 438 Cr.P.C. for pre-arrest bail has been filed by the petitioner – Sudha @ Babli, aged about 37 years, resident of village Mamaria Asampur, Tehsil & District Rewari, an accused in FIR No.260 dated 11.6.2020, under Sections 306/34 IPC (Section 506 IPC added later on), registered with Police Station Khol,

District Rewari.

Briefly stated, the facts of the case as per the prosecution story are that one Joravar son of Indraj, resident of Mamaria Ahir had committed suicide on 10.6.2020. He had left behind a suicide note in which he had blamed the present petitioner Sudha @ Babli and her husband Yaspal for driving him to commit suicide. On matter being reported to the police by son of deceased, namely, Deepak, formal FIR was recorded.

Apprehending her arrest in this case, the petitioner had approached the Court of Sessions at Rewari by filing an application seeking grant of pre-arrest bail. However, her such application had been dismissed by learned Sessions Judge, Rewari vide detailed order dated 28.6.2021. As such, the petitioner has approached this Court by way of filing the instant petition asking for the similar relief, which request is being resisted by the State counsel as well as learned counsel appearing for the complainant.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel appearing for the complainant besides going through the records.

Learned counsel for the petitioner has contended that offence under Sections 306 or 506 IPC is not made out against the present petitioner since no abetment on her part to the suicide committed by the deceased is made out. As a matter of fact, the petitioner had never harassed the deceased, rather there was a dispute regarding some payment between them. The deceased had served a legal notice dated 22.5.2020

upon the petitioner for making the payment; the petitioner is a married woman having small children to look after; no recovery is to be effected from her; she is ready and willing to join the investigation, therefore, she be granted concession of pre-arrest bail.

This prayer is being opposed vehemently by learned State counsel and counsel representing the complainant stating that the petitioner is specifically named in the suicide note; on account of the acts of the petitioner, the deceased was compelled to end his life by committing suicide. The custodial interrogation of the petitioner is necessary for unfolding the entire story. Under the circumstances, the present petition is bound to fail.

Before adverting to the arguments advanced by the two sides, it would be proper and appropriate to refer to the suicide note left by the deceased. The petitioner has placed on record translation of the suicide note as Annexure P2 and for ready reference, the same is being reproduced as under:

“Joravar son of Indraj caste Ahir is a resident of Mamaria Ahir. I have family terms with Yashpal son of Nihal Singh. In the year 2018 Sudha @ Babli came to my home and asked for money for the construction. I after selling the crops gave cash of Rs.11,50,000/- to Yashpal wife of Sudha @ Babli. When I asked to return the money then every time he gave me the next date of next month. In February, 2020 when I asked for my money then they threatened to kill me. At that time the time was 3:35 when I went to their house then Sudha @

Babli said that she would get him killed by Sanjay son of Jaswant. Babli caught my collar, and I ran away by rescuing myself. Then I wrote against them to P.S. Khol and S.P. Rewari thrice. But no action was taken on my representation. On 2.6.2020, I was called in Police Station Khol. There Ravi pressurize me to compromise the matter. When I did not compromise the matter then the accused persons thrown me out of police station and abuse me and said to the accused persons that you falsely implicate him in a false case. Due to these reasons I am committing suicide.

A perusal of such suicide note goes to show that the deceased has specifically mentioned therein that petitioner/accused had contacted him in the year 2018 and asked him to lend money for the purpose of construction of her house and he after selling the crops gave cash amount of Rs.11,50,000/- to her; however, when he asked Sudha @ Babli and her husband to return money, they put off the matter and ultimately threatened him; in February, 2020 in the evening when he had gone to their house, then Sudha @ Babli had caught him by collar of his shirt threatening that she would get him killed by Sanjay son of Jaswant.

The petitioner being specifically named in the suicide note and incriminating acts attributed to her, it is not open for the petitioner to come up with a plea that offence of abetment to suicide is not made out against her. The suicide note was got examined by the investigating agency and as per the expert opinion, the writing was in hand of the deceased. For a human being life is a very precious thing. The human

beings are in awe of death and want to lead a long life. The people are fearful of death. The desire to live more by even old people is there. It is under very compelling circumstances that one ends his own life and while doing so, if the person committing suicide named some other person being responsible to force him to take the extreme step, his such statement is required to be taken up with all the seriousness. Why should a person leaving this mortal world by ending his life himself would blame an innocent person holding him responsible for his death, is difficult to understand.

The argument advanced by learned counsel for the petitioner that there was a dispute regarding payment between her and deceased etc. and no abetment on her part is made out are the aspects, which would be looked into by the trial Court, while determining the guilt of the accused. This Court while determining the entitlement of petitioner for grant of anticipatory bail is not to conduct a deep probe in the matter touching merits of the case since it is duty of the trial Court to do so. This Court is to examine the prosecution version primarily.

Pre arrest bail is a discretionary relief and is to be granted in exceptional cases and not in routine. It is meant to save the innocent persons from harassment and inconvenience and not to screen the culprits from arrest and custodial interrogation.

The custodial interrogation of the petitioner is necessary for complete and effective investigation so as to find out as to how and under what circumstances she had abetted the suicide of the deceased. In case custodial interrogation of the petitioners is denied to the investigating

agency that would leave many loose ends and gaps in the investigation affecting the investigation being carried out adversely, which is not called for.

In case of *State represented by the C.B.I. Versus Anil Sharma, 1997(4) R.C.R.(Criminal) 268*, Hon'ble Apex Court had observed that custodial interrogation is qualitatively more elicitation orientated than questioning a suspect who is on anticipatory bail, in a case like this interrogation of suspected person is of tremendous advantage in getting useful informations.

Therefore, the facts and circumstances of the case do not call for acceptance of the petition. The same is doomed for failure and is dismissed accordingly.

It may be mentioned here that nothing discussed hereinabove shall have any bearing on the merits of the case.

29.7.2021

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No

(H.S.MADAAN)

JUDGE