

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

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CRM-M-26346-2021

Date of Decision: 12.10.2021

Sandeep ...Petitioner

Versus

State of Haryana & another ...Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Surya Parkash, Advocate, for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana,
assisted by ASI Surinder.

Mr. Rajesh Bansal, Advocate, for the complainant.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of anticipatory bail in respect of a case registered against him vide FIR No.54 dated 02.02.2021 at Police Station Sadar, Gurugram, Haryana, under Sections 306/34 IPC.
2. On 16.07.2021, the following order was passed by a Coordinate Bench:

“This is a petition filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.54 dated 02.02.2021 under Sections 306 and 34 of the IPC, 1860, registered at Police Station Sadar, Gurugram, Haryana.

Learned counsel for the petitioner submits that as per the allegations in the FIR, registered at the instance of complainant-Saurav Jain i.e. son of deceased Sudesh Jain, it is stated that he is working in a private company and his father had set up a factory for production of tyres in a rented

accommodation. It is further stated that Rinku @ Sandeep (petitioner) had taken Rs.8,00,000/- as loan on interest from his father.

It is also stated that Rinku @ Sandeep had taken money from 06-07 more persons through his father and his father used to tell him about the loan at his home. It is further stated that when his father asked him to return the amount as well as the interest, Rinku @ Sandeep refused to return the same and on that account, his father was under stress and committed suicide by hanging with a rope at the rented accommodation of the factory.

On the asking of the Court, learned counsel for respondent No.2/complainant has placed on record the suicide note.

A perusal of the suicide note shows that it is stated that some amount was given on interest by petitioner Rinku @ Sandeep and some amount was given to one Dahiya Rubber Wala through Rinku @ Sandeep and in that process, the money of the deceased was blocked as petitioner is not returning the amount.

Learned counsel for the petitioner further submits that from the suicide note, no offence under Section 306 IPC is made out as the contents of the same do not amount to abetment in any manner within the purview of Section 107 of the IPC. Learned counsel for the petitioner relies upon the judgment of Hon'ble Supreme Court rendered in ***Gurcharan Singh versus State of Punjab, 2020(10) SCC 200*** to submit that it is held that if a loan is taken by the accused from the deceased and same is not returned, in the absence of showing that the deceased was harassed on that account, it cannot be said that the accused created such an atmosphere that the deceased committed Suicide.

Learned counsel for the petitioner further submits that there is nothing to suggest that the petitioner has put the deceased in such a position that he has no option but to commit

suicide and, therefore, in the absence of any allegation of abetment, it will be a matter of trial under what circumstances the deceased has committed suicide.

Learned counsel for the petitioner further submits that in the FIR, there is no allegation that prior to committing the offence either the complainant-son of the deceased or the deceased himself has lodged any complaint before any police authority or any other authority that the petitioner was threatening the deceased in such a manner that abetted him to commit suicide.

Learned counsel for the petitioner volunteers that the petitioner will deposit a sum of Rs.2,00,000/- with the Illaqa Magistrate, without any prejudice to his right of defence, subject to the final outcome of the case.

Learned State counsel, assisted by the learned counsel for the complainant, submits that as per the Forensic report, the handwriting of the deceased has tallied with the suicide note and, therefore, it is apparent that the petitioner by not returning the amount was harassing the deceased.

Learned counsel for the complainant submits that the suicide note was found on the same day and that the deceased was a person aged about 60 years and was continuously harassed by the petitioner.

List again on 12.10.2021.

Meanwhile, in the event of arrest, the petitioner be released on interim bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438 (2) Cr.P.C.

The petitioner, as stated above, will deposit an amount of Rs.2,00,000/- with the trial Court/Illaqa Magistrate within a period of one month from today and the same will be kept

in a FDR, without any prejudice to his right of defence, subject to final outcome of the case.”

3. Learned State counsel upon instructions has informed that pursuant to interim directions issued by this Court, the petitioner has since joined investigation.
4. Learned counsel for the petitioner has informed that pursuant to interim directions issued by this Court, the petitioner has furnished FDR for an amount of Rs.2 lakhs to the Illaqa Magistrate and that the Illaqa Magistrate had issued a specific direction to the Bank concerned not to release the amount without any order of the Court.
5. However, learned counsel for the complainant has opposed the petition on the ground that in the present case there is evidence to show that shortly before the commission of suicide by the deceased, he had made as many as 6 calls to the petitioner, which were not attended to by him and that it was the 7th call, which was attended to by the petitioner, wherein a conversation of 19 seconds had taken place. Learned counsel for the complainant has further submitted that there is also evidence to show that thereafter the deceased had visited the factory premises of the petitioner and upon his return he committed suicide. Lastly, it has been submitted that as per the forensic report, the handwriting of the deceased tallies with the handwriting on suicide note, which was found on the same day and as such, it is apparent that the petitioner was harassing the deceased.

6. I have considered aforesaid submissions addressed before this Court.
7. No doubt, as per forensic report, the handwriting of the deceased tallies with the handwriting on suicide note, but it will certainly be debatable as to whether under the given circumstances, it can be said that the conduct of the petitioner can be said to constitute abetment to commit suicide or not. In any case, the petitioner pursuant to interim directions has joined investigation and has also deposited an FDR for an amount of Rs.2 lakhs with the trial Court and the trial Court had issued instructions to the Bank concerned not to encash the same without order of the Court. Bearing the aforesaid facts and circumstances in mind particularly the debatable fact that as to whether the petitioner has indeed abetted the commission of suicide by the complainant or not and while also noticing that the petitioner has already joined investigation, the petition is accepted and the interim directions issued by this Court vide order dated 16.07.2021 are hereby made absolute subject to the condition that the petitioner shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
8. It is, however, directed that in case the petitioner is ultimately convicted by the trial Court and his conviction attains finality, it is the complainant who shall be entitled to the proceeds of the FDR.

On the other hand, in case the petitioner is acquitted and said

judgment of acquittal attains finality, the petitioner would be at liberty to encash the FDR.

12.10.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No