

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

**CRM-M No.28767 of 2021
Date of Decision:-08.10.2021**

Balwinder Kumar

.....Petitioner.

Versus

State of Punjab

.....Respondent.

(Heard through Video-Conferencing)

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Munish Bhardwaj, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. Amit Shukla, Advocate
for the complainant.

MEENAKSHI I. MEHTA, J.

Apprehending his arrest in the criminal case pertaining to the FIR bearing No.19 dated 04.06.2021 registered at Police Station GRP, Jalandhar, District Government Railway Police, Jalandhar, under Sections 306, 34 and 120-B IPC, the petitioner has preferred this petition for seeking the relief of anticipatory bail.

Bereft of unnecessary details, the allegations, as levelled in the instant case, are that the son of the complainant, named Rahul, was taken by the co-accused of the petitioner named Beero, to her house on the pretext of doing paint work and on his (victim's) reaching there, the petitioner as well as his co-accused named Mani, Tari, Gian Singh and

Jassi abused and threatened him and also gave him beatings, broke his mobile phone and prepared a video-clip to defame him and feeling humiliated on account of the same, he (victim) committed suicide.

Status-report, by way of the affidavit of Deputy Superintendent of Police, GRP, Jalandhar, has already been filed on behalf of the respondent-State.

I have heard learned counsel for the petitioner as well as learned State counsel (assisted by learned counsel for the complainant) in the present petition and have also gone through the record thoroughly.

Learned counsel for the petitioner contends that the name of the petitioner does not find mention in the FIR and rather, he has been got falsely implicated in this case and even otherwise, the allegations, as levelled in the afore-said FIR, do not suffice at all to make out an offence under Section 306 IPC and in fact, the deceased/victim was a hyper-sensitive person and had over-reacted to the alleged situation as narrated therein. He places reliance upon the observations, as made by Hon'ble Supreme Court in ***Criminal Appeal No.953 of 2021*** titled as ***Velladurai Versus State represented by the Inspector of Police*** (decided on 14.09.2021) in support of his contentions.

Per contra, learned State counsel argues that the mediator of the marriage of accused Tari, has also been nominated as an accused in the afore-said FIR and the petitioner is the said mediator and moreover, there are specific allegations against the petitioner as well as his above-named co-accused that they all humiliated the victim by giving him beatings,

extending threats and also by making his video-clip and these facts are sufficient to constitute the offence under Section 306 IPC and keeping in view the gravity of the offence committed by the petitioner, this petition be dismissed.

Undisputedly, the mediator of the marriage of accused Tari has also been nominated as an accused in the subject FIR and in para 6 of the status-report, it has categorically been mentioned that the complainant, i.e the mother of the victim, had made a supplementary statement to the effect that her son had informed her that the petitioner (mentioned as the mediator of the marriage of said Tari, in the FIR) had also given him beatings and had threatened him and he had abetted her son to commit suicide. It being so, the contention qua the petitioner having not been named as an accused in the said FIR, cannot be taken to be sufficient at all, at this stage, to grant the benefit of anticipatory bail to him.

Further, as discussed above, there are specific allegations in the said FIR regarding the deceased/victim having been abused, threatened, humiliated and given beatings by the petitioner and his co-accused. The factum as to whether the deceased was hyper-sensitive and had over-reacted in the alleged situation or not, can and shall be looked into and adjudicated upon by the trial Court at the appropriate stage after appreciating and evaluating the evidence that may be led on the record during the course of the trial and at this moment, the said fact cannot be considered and determined/ ascertained while deciding this petition.

The observations as made by the Apex Court in ***Velladurai's***

case (supra) are of no help to the petitioner to seek the relief as prayed for in the present petition because the same were made while deciding the criminal appeal preferred by the appellant therein against the order handed down by the High Court confirming the judgment and order of conviction rendered by learned trial Court, whereas in the case in hand, the investigation is still continuing and thus, the trial proceedings are yet to commence.

Keeping in view the fore-going discussion as well as the gravity of the offence as alleged to have been committed by the petitioner, this Court is of the considered opinion that he does not deserve the relief of anticipatory bail.

Resultantly, the petition in hand stands dismissed.

However, it is clarified that nothing contained here-in-before shall be construed to be an expression of the opinion of this Court on the merits of the case.

October 08, 2021
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*

Whether Reportable: *No*