

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

CRM-M-31106-2020

Date of decision:12.01.2021

MALKIT SINGH

... PETITIONER

VERSUS

STATE OF PUNJAB

... RESPONDENT

Coram: Hon'ble Mr. Justice Jasgurpreet Singh Puri

Present: Ms. Satinder Pal Singh Dhaliwal, Advocate
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

(Through Video Conference)

Jasgurpreet Singh Puri, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail in FIR No.206 dated 27.06.2020 under Section 306 IPC, Police Station City Kapurthala, District Kapurthala.

Learned State counsel has filed reply by way of affidavit of Deputy Superintendent of Police, Sub Division, Kapurthala. The printout of the same is directed to be taken on record.

Learned counsel for the petitioner has submitted that earlier he had filed the bail petition before this Court which was dismissed as withdrawn on 09.09.2020. He has submitted that FSL report has been received on 09.10.2020 and charges have been framed on 24.10.2020 and therefore, in view of the changed circumstances the present bail petition would be maintainable.

It is submitted that in the present case the FIR was lodged by the

about 12 years ago and there is a son aged 10 years old from the wedlock. It is stated in the FIR that the petitioner used to torture her daughter on the ground that he wants to get solemnized another marriage in view of which her daughter remained disturbed and thereafter, she committed suicide by drinking some poisonous substance.

Learned counsel has further submitted that the petitioner is in custody since July, 2020 which is more than 5 months and the investigation in the present case is complete and the charges have now been framed. He submitted that prima facie offence under Section 306 IPC is not made out in the present case in view of the fact that there is nothing to suggest that the petitioner has played any active role towards the cause of suicide. He further submitted that assumingly even if the deceased was disturbed on the ground that the petitioner wanted to marry someone else, the same would not also constitute an offence under Section 306 IPC unless the ingredients of Section 306 read with Section 107 IPC are fulfilled. He further submitted that he may be released on bail also in view of the fact that he has 10 years of child.

On the other hand learned counsel for the State has submitted that it is correct that FSL report has been received and the charges have been framed but he has opposed the grant of anticipatory bail on the ground that the offence is serious in nature.

I have learned counsel for the parties.

The investigation of the present case is already complete and the charges have also been framed and it is not a case of the State that in case the petitioner is released on bail then he may influence any of the witnesses or may tamper the evidence. Furthermore, the applicability of Section 306 IPC is also a debatable issue.

Therefore, keeping in view the above facts and totality of circumstances of case and without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner is granted the concession of regular bail. He be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the concerned Trial Court/Duty Magistrate.

12.01.2021
Ithlesh

[JASGURPREET SINGH PURI]
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No