

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-33659-2020 (O&M)
Date of Decision: 09.02.2021

Deepak @ Shiv Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Rajesh Gupta, Advocate,
for the petitioner.

Mr. Prabhjot Singh Walia, Assistant Advocate General, Punjab.

Through Video Conferencing

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 to the petitioner in FIR No.0244 dated 30.08.2020, under Sections 306 and 34 of the Indian Penal Code, registered at Police Station Division No.5, District Police Commissionerate, Ludhiana.

As per the aforesaid FIR, which was lodged on the basis of statement of one Arun Kumar son of Sant Ram, it has been stated by him that he is running his own canteen in Government College for Girls, Sector-42, Chandigarh, and Sushil Kumar (deceased) was his brother. On 27.08.2020 at around 12:00 Noon, his brother went out by saying that he is going to market but he did not come back following which the uncle of the complainant namely Budh Singh and other relatives went to Ludhiana for search of his brother Sushil Kumar, who could not be found. Then on the

day of lodging of the FIR at around 12:30 P.M., a phone call came that the aforesaid Sushil Kumar (deceased) had committed suicide in Mukat Hotel in Room No.306 situated at third floor by hanging himself by rope from ceiling fan at Ludhiana and even a day prior to the date of lodging of the FIR, a Whatsapp message was also received from the deceased's mobile phone to his wife having a photograph of the suicide note. As per the suicide note, the deceased had stated that he was committing suicide and for that purpose Ria Thakur @ Lakshmi and Deepak @ Shiv Kumar (petitioner) were responsible. It is further stated in the suicide note that they have blackmailed him and taken money from him and that the said money be taken from them and given to his family.

The learned counsel for the petitioner has submitted that the petitioner is in custody since last 5 months and 05 days and the case has already been investigated by the police and the challan stands presented under Section 173 Cr.P.C. before the competent court. It is further submitted that ex facie on the basis of suicide note itself, it can be seen that the ingredients of Section 306 IPC read with Section 107 IPC are not fulfilled because there is no element of any incitement to commit suicide. He has further submitted that the mere fact that there was a financial dispute between the deceased and the petitioner would not attract the provisions of Section 306 IPC and he has relied upon the law laid down by Hon'ble Supreme Court in *Arnab Manoranjan Goswami v. The State of Maharashtra and Ors., 2020(4) MLJ (Criminal) 639*. He has further submitted that the trial would take long time and no recovery is to be effected from the petitioner and has therefore, prayed for the grant of regular

bail.

On the other hand, the learned State counsel has submitted that it is a case of suicide where the allegations are pertaining to blackmailing and therefore, the matter being serious in nature, he has prayed for dismissal of the bail petition. However, the learned State counsel has not denied the custody period of the petitioner. He has also not denied that the challan has already been presented after the investigation has been completed. Relying upon the custody certificate, he has also submitted that there is no other case against the petitioner.

I have heard the learned counsel for the parties.

The custody of the petitioner is not denied in the present case. It is also not denied by the learned State counsel that the investigation of the case is already complete and the challan stands presented under Section 173 Cr.P.C. before the competent court. The argument raised by the learned counsel for the petitioner, that the basic ingredients of Section 306 IPC read with Section 107 IPC are not fulfilled, does carry some weight at this stage. However, whether the ingredients of Sections 306 IPC and 107 IPC are fulfilled or not would be seen at the time of trial only. Furthermore, it is not a case of the State that in case the petitioner is granted bail then he may tamper with any evidence or influence any witnesses or flee from justice in view of the fact that there is no other case against him as submitted by the learned State counsel.

Therefore, considering the totality and circumstances of the present case, I deem it fit and proper to allow the present petition.

Consequently, the present petition is allowed. The petitioner shall be

admitted to regular bail on his furnishing bail/surety bonds subject to the satisfaction of the learned trial Court/Duty Magistrate.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

09.02.2021
adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No