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

CRM-M-41175-2020

Date of decision : 26.10.2021

Bharti

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rahul Jaswal, Advocate for the petitioner.

Mr. Praveen Bhadu, AAG, Haryana.

Mr. Shiv Charan Bhola, Advocate for the complainant.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

Prayer in the present petition is for grant of anticipatory bail to the petitioner in FIR No.49 dated 24.07.2020 registered under Sections 306 and 34 of the Indian Penal Code, 1860 at Police Station GRP, Faridabad, District Faridabad.

On 09.12.2020, a Coordinate Bench of this Court was pleased to pass the following order:-

“The case has been taken up for hearing through video conferencing.

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 (for

short 'the Cr.P.C.') for grant of anticipatory bail in case FIR No.49 dated 24.07.2020 registered under Section 306 read with Section 34 of the Indian Penal Code, 1860 at Police Station GRP, Faridabad, District Faridabad.

Learned Counsel for the petitioner has submitted that the husband of the petitioner died due to accident. The present FIR has been registered with undue, unreasonable and unexplained delay of 4 months and 23 days. The petitioner has been falsely implicated in the case on account of family dispute on the allegations of having abetted commission of suicide by her husband. There was no act on the part of the petitioner of instigating, intentionally aiding or abetting of committing of suicide by her husband. The allegations made in the FIR do not satisfy the ingredients of Section 306 of the IPC. The petitioner is ready to join the investigation and her custodial interrogation is not necessary in the case.

Notice of motion.

Pursuant to supply of advance copy of the petition, Mr. Sumit Jain, Addl. A.G., Haryana has appeared and accepted notice on behalf of the respondent-State.

At this stage, Mr. Shiv Charan Bhola, Advocate has appeared on behalf of the complainant and undertakes to file his power of attorney in the Registry.

Learned State Counsel and learned Counsel for the complainant seek time to file reply.

Adjourned to 11.02.2021.

In the meanwhile, the petitioner is directed to join the investigation as and when called upon to do. In the event of her arrest, the petitioner shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by her to the satisfaction of the arresting officer/investigating officer. The petitioner shall comply

with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which she shall not be entitled to the protection of interim bail allowed to her.”

Learned counsel for the petitioner has submitted that in pursuance of the abovesaid order dated 09.12.2020, the petitioner has already joined the investigation and even the challan in the present case has been presented and thus, the investigation is complete and the petitioner is not required for any further custodial interrogation.

Learned counsel for the petitioner has further reiterated the fact that in the present case, prima facie, no offence under Section 306 of IPC is made out, even, in case the allegations made in the FIR are taken to be true.

Learned counsel for the State has submitted that in the present case, the petitioner had already joined the investigation on 19.12.2020 and is not required for any further custodial interrogation. He further submits that the challan has also been presented on 04.01.2021 and the next date before the trial Court is 02.11.2021 and the trial is proceeding in the matter.

Learned counsel for the complainant has opposed the present petition for grant of anticipatory bail to the petitioner and has submitted that the petitioner had an illicit relationship with one Pankaj and it is on account of the same that husband of the petitioner had committed suicide.

Keeping in view the abovesaid facts and circumstances, moreso the fact that the petitioner has joined the investigation and is not required for any further custodial interrogation and the fact that the challan in the present case has already been presented and also the fact that as to whether in the present case, Section 306 of IPC is made out or not, would be a moot

point at trial, this Court deems it appropriate to allow the present petition.

Accordingly, the interim order dated 09.12.2020 is ordered to be made absolute.

Accordingly, the present petition is allowed.

However, nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

26.10.2021

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No