

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

CRM-M-45276-2021

Date of decision : 14.12.2021

Gajraj and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Vinod Ghai, Senior Advocate with
Ms.Kanika Ahuja, Advocate and
Ms.Mahima Dogra, Advocate
for the petitioners.

Mr.Anmol Malik, DAG, Haryana.

Mr.Pawan Singh Rao, Advocate
for the complainant.

VIKAS BAHL, J.(ORAL)

This is first application under Section 438 Cr.P.C. for granting anticipatory bail to the petitioners in FIR no.334 dated 07.09.2021 registered under Section 306 read with Section 34 IPC (Sections 365, 506, 406 read with Section 34 IPC added later on) at Police Station Bilaspur, District Gurugram.

On 29.10.2021 this Court had passed the following order:-

“Learned Senior Counsel for the petitioners inter alia contends that in the present case, the petitioners had purchased land from one Prem Lata Sharma, vide registered sale deed dated 23.02.2017 (Annexure P-2). In the said sale deed, the deceased-Mahipal was not a party. Further, the said deceased-Mahipal had sold

property vide two registered sale deeds dated 09.03.2017 and 22.03.2017 (Annexures P-3 and P-4) to Ved Parkash-co- accused and a perusal of the said sale deeds would show that the entire sale consideration has been paid to the said deceased-Mahipal by Ved Parkash. Since, the said deceased-Mahipal had already sold his property earlier to a third person, thus, FIR No.96 dated 30.03.2018 (Annexure P-5) was registered against the deceased-Mahipal and Ved Parkash. In the said case, the deceased-Mahipal was granted the concession of regular bail after being in custody for 25 days.

Learned Senior Counsel for the petitioners has argued that in the transaction with the deceased-Mahipal, the petitioners had no role to play except for the fact that they were the attesting witnesses in the said two sale deeds dated 09.03.2017 and 22.03.2017 (Annexures P-3 and P-4) and even a perusal of the suicide note (Annexure P-6) would show that no offence under Section 306 of the IPC or any other offence are even remotely made out against the petitioners and the present dispute is primarily a civil dispute. Further, it has been contended that even as per the said suicide note, the deceased had stated that he had to pay money to other persons also, on account of which he was under pressure. It is further argued that it cannot be even remotely stated that there is an instigation/abatement so as to constitute the offence under Section 306 of IPC.

Notice of motion.

On asking of the Court, Mr. Praveen Bhadu, AAG, Haryana, appears and accepts notice on behalf of State of Haryana and seeks time to get instructions. Mr. Deepanshu Matya, Advocate accepts notice on behalf of the complainant.

Adjourned to 14.12.2021.

In the meantime, in the event of arrest, the

petitioners shall be released on interim bail subject to furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioners 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.”

Learned senior counsel for the petitioners has submitted that in pursuance of the said order, the petitioners have already joined investigation.

Learned State counsel, on instructions from ASI Anil Kumar, has submitted that the petitioners have joined investigation on 01.12.2021 and are not required for further investigation.

Learned counsel for the complainant, on the other hand, has opposed the application for anticipatory bail and has submitted that in the present case there is a suicide note as per which money had not been paid by the petitioners to the deceased and the same was the reason for his having committed suicide and further with respect to the same, there is a video also which shows that it was because of registration of the sale deed on 23.02.2017 and non payment of money with respect to the same that the said person had committed suicide.

This Court has heard learned counsel for the parties and has perused the paper book.

As has been noticed in the above said order, it is apparent that the registered sale deeds are of the year 2017 and the said sale deeds also show that the entire sale consideration had been paid to deceased Mahipal and the alleged suicide had been committed on 06.09.2021, after a delay of more than 4 years from the date of registration of the said sale deeds and

has further been stated in the suicide note itself that the deceased had to pay money to other persons also, on account of which he was under pressure. In the said circumstances, it is highly debatable as to whether the offence under Section 306 IPC would be made out or not.

Be that as it may, the petitioners in pursuance of said orders have already joined the investigation and they are not required for further investigation, thus, the present petition for anticipatory bail is allowed and interim order dated 29.10.2021 is made absolute.

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 petition.

(VIKAS BAHL)
JUDGE

December 14, 2021

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No