

208

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

CRM-M-10972-2022

Date of decision:19.05.2022

DEEPAK

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ketan Antil, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, DAG, Haryana

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition cast under Section 438 of Cr.P.C., seeks grant of anticipatory bail in case FIR No.534 of 22.12.2021, registered at Police Station Sonapat Sadar, District Sonapat, wherein an offence constituted, under Section 306 of IPC, is embodied.

2. This Court, through an order made, on 15.03.2022 had granted ad-interim bail to the present bail petitioner.

3. The inculcation, as drawn against the present bail petitioner is grooved in a dying declaration appended, as Annexure R-1 with the reply furnished to the petition by the State, contents whereof are extracted hereinafter.

“Statement of Partap Singh son of Jai Lal, Jat, resident of village Pipli, Kharkhoda, District Sonapat. Aged 73 years.

Stated that I am the resident of above mentioned address and used to do the agricultural work. About 6 years ago, father in law of my son Suresh namely Ram Kishan, resident of Khewra and his brother in law Deepak son of Ram Kishan, resident of Khewra and my nephew (Bhanja) Satish. Killohard had cheated me regarding my land and forcibly possessed my land measuring about four and half acres. I needed the said land, but did not get the same. Being

harassed by them, I consumed two pills meant to be put in wheat near the Temple of village Kilohard and then, passersby came to know about the same. I do not know as to who took me to hospital at that time. Now, I gained consciousness and my son Ramesh is with me. Statement has been got recorded, which is correct. Legal action be taken against them.

Sd/- Partap

*Attested
HC Devender
P.S. Sadar, Sonipat
14.12.2021*

Police Proceedings - Today, I HC am present in Police Station, when at about 4.00 p.m., a phone call has been received from Control Room, Sonipat to the effect that victim Partap Singh son of Jai Lal, resident of Pipli, Kharkhoda, aged 72 years has been admitted in PGIMS, Khanpur as a poison case and IO be sent for taking proceedings, upon which information, I HC alongwith Constable Vikram 1189 reached at PGI, Khanpur, where I HC obtained the Doctor's Ruqa with MLR No.BPS/PKM/1224/2021 dated 14.12.2021 of victim Partap Singh, resident of Pipli and I HC presented an application for obtaining the statement of victim Partap Singh to the Doctor, and the Doctor opined him to be fit for statement. I HC alongwith accompanying Constable met the victim in ICU, where victim Partap got recorded his above mentioned statement, which was reduced into writing word to word. After considering the said statement to be correct, the victim signed the same in Hindi, which has been attested by I HC and from the above statement offence under Section 309 IPC is found to be made out. but as per the orders of the Hon'ble Supreme Court, no action can be initiated on the Tehrir and after return, the entry will be made in the Roznamcha. SHO has been made aware about the facts.

*Sd/-
HC Devender P.S.
Sadar, Sonipat"*

4. Without at this stage, going into the factum of it being validly authored by the deceased, and, also without at this stage going into the further

aspect whether, at the stage of its being drawn by the deceased, his being truthfully, and, validly declared by the attending doctor, to be fit to make the dying declaration. The reason which prevails, upon this Court to, on its anvil *prima-facie* make a conclusion, that the therein made attributions of guilt, to the petitioner are *prima-facie* ridden with falsity, and/or, the mentioned therein abetting fact, does not hold the requisite evidentiary vigor nor does it hold proximity with the ultimate fact, of the deceased committing suicide through his consuming poison.

5. Primarily the narration contained in the hereinabove extracted dying declaration, as, purportedly made by the deceased, is that his, about six years prior to its making, rather the accused named therein cheating him regarding his land, and, also dispossessing him of his land measuring 4½ acres.

6. Since it is stated at the bar, by the learned State counsel, that in respect of the petition land, civil suits became instituted before the learned Civil Court concerned, and, that the civil suits concerned, are yet awaiting adjudications being made thereons, by the learned Civil Court.

7. Since in the wake of the above, the contesting claimants, to the disputed petition land, are re-coursing civil remedies before the Civil Court concerned, and, when the civil suits have yet not culminated into a decision being made thereons by the Civil Court of jurisdiction. Therefore, merely for re-coursing of any civil remedy, at the instance of the aggrieved concerned, and, may be one of which may be the bail petitioner, the deceased could not *prima-facie* be concluded, to become either instigated or goaded, by the above re-coursings of civil remedies, at the instance of any person, inclusive of the bail petitioner, as then, on all occasions, when civil remedies are re-coursed by any aggrieved, then such re-courses would impermissibly be concluded to be

comprising the relevant instigatory or abetting factor for the aggrieved concerned, to rather commit suicide.

8. Be that as it may, since the above *prima-facie*, at this stage cannot be concluded to be the abetting factor, in the deceased committing suicide.

9. Moreover, irrespective of the above extracted disclosures, carried in Annexure R-1, this Court yet deems it fit, and, appropriate to not put the present bail petitioner to custodial interrogation.

10. The further reason for enlarging the present bail petitioner to anticipatory bail, is comprised in the factum, that at this stage no evidence has been adduced by the prosecution, suggestive that in the event of the bail petitioner being enlarged on anticipatory bail, there is every likelihood of his fleeing from justice, and/or, tampering with prosecution evidence.

11. In summa the order as made, by this Court, on 15.03.2022, is made absolute on the same terms and conditions. In addition, he shall not tamper with prosecution evidence nor shall influence the prosecution witnesses.

12. Disposed of.

13. This order is only for the disposal of the petition, and, shall have no bearings on the merits of the case.

(SURESHWAR THAKUR)
JUDGE

19.05.2022

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Whether speaking/reasoned:- Yes/No

Whether reportable: Yes/No