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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-12178-2021
Date of Decision: 09.03.2022

Suresh Kumar

....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. G.S. Punia, Senior Advocate assisted by
Ms. Harveen Kaur, Advocate, for the petitioner.

Mr. K. S. Sidhu, DAG, Punjab.

Mr. M.K. Singla, Advocate, for respondent Nos. 2 and 3.

JASGURPREET SINGH PURI, J. (Oral)

The present petition filed under Section 439 (2) of the Code of Criminal Procedure for cancellation of bail granted by the learned Additional Sessions Judge, Fatehgarh Sahib vide Annexure P-1 dated 16.02.2021 in FIR No.11 dated 29.01.2021, under Sections 306/34 IPC, registered at Police Station Sirhind, District Fatehgarh Sahib.

On 23.11.2021 the learned counsel has submitted that although the present petition has been filed under Section 439 (2) Cr.P.C and the grievance of the petitioner was that the order of bail passed by the learned trial Court was erroneous and perverse and, therefore, this petition may be

treated as a petition under Section 482 Cr.P.C as well.

In view of the above, this Court would proceed by treating the present petition as a petition under Section 482 Cr.P.C as well. Vide Annexure P-1 the learned Additional Sessions Judge, Fatehgarh Sahib on 16.02.2021 granted anticipatory bail to both the petitioners in FIR No.11 dated 29.01.2021, under Sections 306/34 IPC, registered at Police Station Sirhind, District Fatehgarh Sahib.

Mr. G.S. Punia, learned Senior Advocate with Ms. Harveen Kaur Advocate for the petitioner has submitted that the police was in fact conniving with the accused persons and it is a case where as per the suicide note (Annexure P-6) the deceased was being harassed by the petitioners due to the fact that the daughter-in-law of the deceased has been elected as Sarpanch of the village and that was the reason as to why, he has committed the suicide. The learned Senior Counsel further submitted that the matter being serious in nature, the order granting anticipatory bail to the petitioners was erroneous and bad in law and, therefore, the same is liable to be cancelled.

On the other hand, Mr. M.K. Singla, learned counsel appearing on behalf of respondent Nos. 2 and 3 who were granted bail by the learned Additional Sessions Judge submitted that the basic ingredients of Sections 107 and 306 IPC were not fulfilled in the present case and there was no case of intimidation or incitement to commit suicide. He further submitted that mere allegation of harassment itself is not sufficient to prove that the case falls within the parameters of Section 107 and 306 IPC and, therefore, the petitioners were rightly granted bail by the learned Additional Sessions

Judge.

I have heard the learned counsel for the parties.

A perusal of the suicide note (Annexure P-6) would show that the deceased had stated in the suicide note that the present petitioners were always finding fault in the work of panchayat and were instigating panchayat members and were unnecessarily harassing the deceased and, therefore, he was fed up from these persons and a number of times the petitioners have harassed him and, therefore, he thought of committing suicide. The Hon'ble Supreme Court in ***Arnab Manoranjan Goswami Versus State of Maharashtra and others [2021(2) SCC 427]*** while discussing the law relating to Section 306 IPC observed as follows:

*“51 Similarly, in another recent judgment of this Court in **Ude Singh and Ors. vs State of Haryana, Criminal Appeal No.233 of 2010 decided on 25 July, 2019**, a two judge Bench of this Court, speaking through Justice Dinesh Maheshwari, expounded on the ingredients of [Section 306](#) of the IPC, and the factors to be considered in determining whether a case falls within the ken of the aforesaid provision, in the following terms:*

“38. In cases of alleged abetment of suicide, there must be a proof of direct or indirect act/s of incitement to the commission of suicide. It could hardly be disputed that the question of cause of a suicide, particularly in the context of an offence of abetment of suicide, remains a vexed one, involving multifaceted and complex attributes of human behaviour and responses/reactions. In the case of accusation for abetment of suicide, the Court would be looking for cogent and convincing proof of the act/s of incitement to the commission of suicide. In the case of suicide, mere allegation of harassment of the deceased by another person would not suffice unless there be such action on the part of the accused which compels the

person to commit suicide; and such an offending action ought to be proximate to the time of occurrence. Whether a person has abetted in the commission of suicide by another or not, could only be gathered from the facts and circumstances of each case.

39. For the purpose of finding out if a person has abetted commission of suicide by another, the consideration would be if the accused is guilty of the act of instigation of the act of suicide. As explained and reiterated by this Court in the decisions above-referred, instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the persons who committed suicide had been hypersensitive and the action of accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide. But, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four-corners of [Section 306 IPC](#). If the accused plays an active role in tarnishing the self-esteem and self-respect of the victim, which eventually draws the victim to commit suicide, the accused may be held guilty of abetment of suicide. The question of mens rea on the part of the accused in such cases would be examined with reference to the actual acts and deeds of the accused and if the acts and deeds are only of such nature where the accused intended nothing more than harassment or snap show of anger, a particular case may fall short of the offence of abetment of suicide. However, if the accused kept on irritating or annoying the deceased by words or deeds until the deceased reacted or was provoked, a particular case may be that of abetment of suicide. Such being the matter of delicate analysis of human behaviour, each case is required to be examined on its own facts, while taking note of all the surrounding

factors having bearing on the actions and psyche of the accused and the deceased.”

Similarly, in ***Rajesh vs State of Haryana Criminal Appeal No.93 of 2019 decided on 18 January 2019***, a two judge Bench of this Court, speaking through Justice L. Nageswara Rao, held as follows:

9. Conviction under ***Section 306 IPC*** is not sustainable on the allegation of harassment without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled the person to commit suicide. In order to bring a case within the purview of ***Section 306 IPC***, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Therefore, the act of abetment by the person charged with the said offence must be proved and established by the prosecution before he could be convicted under ***Section 306 IPC***.”

In a recent decision of this Court in ***Gurcharan Singh vs State of Punjab Criminal Appeal No.40 of 2011, decided on 1 October 2020***, a three judge Bench of this Court, speaking through Justice Hrishikesh Roy, held thus:

“15. As in all crimes, mens rea has to be established. To prove the offence of abetment, as specified under Section 107 of the ***IPC***, the state of mind to commit a particular crime must be visible, to determine the culpability. In order to prove mens rea, there has to be something on record to establish or show that the appellant herein had a guilty mind and in furtherance of that state of mind, abetted the suicide of the deceased.”

After hearing the learned counsel for the parties, this Court is of the considered view that the order which has been passed by the learned

Additional Sessions Judge Fatehgarh Sahib granting anticipatory bail to the petitioners does not suffer from any infirmity or illegality nor the same is perverse.

Therefore, finding no merit in the present petition, the same is hereby dismissed.

09.03.2022

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No