

106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21842-2022

Date of decision: May 19, 2022

Anu Kumari

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Rangji, Advocate for the petitioner.

Mr. Deepak Kumar Grewal, DAG, Haryana.

Mr. Vishal Goel, Advocate for the complainant.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for grant of anticipatory bail to the petitioner in case FIR No.73 dated 16.4.2022 under Section 306 IPC, registered at Police Station City Rajpura, District Patiala.

Counsel for the petitioner submits that the FIR was registered at the instance of Lovkesh against petitioner-Anu Kumari with the allegations that on 15.4.2022 at about 8.30 a.m. petitioner came to their house and started threatening his youngest brother Dimple Mukheja aged about 19 years by stating that she will file a case of rape on him and will send him in judicial custody. When the family members of Lovekesh asked about the matter, she did not tell anything and left the house, again threatening Dimple Mukheja. Later on, in the evening at

about 4.00 p.m. Dimple Mukheja uploaded a video on his Whatsapp status from his mobile phone, in which he was telling that due to the harassment caused by the petitioner, he is jumping in a canal. Immediately, the complainant, with his friend Anil, went to Ganda Kheri Canal where they found the motorcycle No.PB-11-BK-2668 of his brother, along with mobile phone lying on the bank of the canal. They immediately called for help from the divers but his brother was not found.

Again, on 16.4.2022, they were searching their brother and the divers found dead body of his brother Dimple Mukheja in the canal and took it out. It is stated that the brother of the complainant committed suicide on account of the continuous harassment by petitioner Anu Kumari.

Counsel for the petitioner has submitted that, in fact, one Renu Bajaj has filed a Criminal Complaint No.766 on 18.4.2022 in the Court of Sub Divisional Judicial Magistrate, Rajpura against deceased Dimple Mukheja; Komal, wife of Naresh Mukheja and Pinki Mukheja, wife of Vinod Mukheja as accused No.1 to3, respectively. In this complaint it was alleged that the daughter of the complainant ('G' -name not disclosed) aged about 14 years was raped by Dimple Mukheja. Para 3 of the complaint is as under :-

"That complainant approached one Anu Mehta wife of Ashwani Kumar r/o Peer Colony, village Neelpur, Tehsil

Rajpura and narrated the above said facts to her and requested her to solve the matter. After listening the grievance of complainant, she called the accused No.2 and narrated the above said facts to her and requested her to counsel the accused No.1 as the above said Gayatri and accused No.1 are the children and further stated that if accused No.1 is ready to gave the assurance that he will not repeat such type of mistake then nobody will take action against him. Accused No.2 gave the assurance to the complainant that she will solve the matter by counseling with the accused No.1, but after some time she stated the complainant that accused No.3 is adamant and he is not ready to listen any word from the mouth of said Komal and further stated that in case, entire family and above said Anu Mehta will counsel him then accused No.1 will not repeat the such mistake in future. Accused No.2 brought the Anu Mehta with her in the house of Accused No.1 forcibly where accused No.1 Naresh Mukheja, father of accused No.1 and grandmother of accused No.1 and their maid Komal were present in the house. All the above said persons tried their level best, but instead of listening them, accused No.1 stated that he has relation with the above said Gayatri who is also used to send the message to accused No.1. Accused No.2 and 3 misbehaved with the complainant and her daughter and abused them and threatened the complainant and above said Gayatri that in case complainant will take action against them then they will also initiate the step against them and dire consequences will be faced by the complainant and her family members."

Counsel for the petitioner further submitted that the petitioner, in fact, was counselling complainant-Renu Bajaj and the victim (G) and in that process, she met deceased Dimple Mukheja and her family members. Counsel for the petitioner also submits that, later on, on 25.4.2022 aforesaid Renu Bajaj withdrew this compliant by making a statement that since Dimple Mukheja had died, she does not want to proceed with the complaint.

Counsel for the petitioner has argued that the petitioner never induced the deceased to commit suicide at any point of time and there is no evidence that the petitioner has ever abetted him in any manner which forced Dimple Mukheja to commit suicide. It is further submitted that since the deceased was indulged in sexual activity with a minor girl, he could have committed suicide on that account and not on account of any threat extended by the petitioner.

In reply, learned State counsel, assisted by counsel for the complainant, has, however, opposed the prayer.

Learned State counsel, on instructions from the Investigating Officer, has submitted that during investigation it is revealed that Renu Bajaj had filed the compliant against Dimple Mukheja in the Court of SDJM, Rajpura levelling allegation of rape on her minor daughter and, in fact, she made a statement before the police that petitioner approached her and her daughter and took them to an Advocate where the

signatures of Renu Bajaj were obtained on blank paper and she was not aware that any false complaint regarding rape has been filed in this regard.

Learned State counsel has further submitted that it is proved from the very fact that when the complaint was filed, the trial Court did not record her statement at the first instance in support of the allegation of rape in the complaint and rather after Dimple Mukheja died, the said complaint was withdrawn. Learned State counsel further submitted that the petitioner got the aforesaid complaint withdrawn to save her skin by stating that since Dimple Mukheja had died, complainant-Renu Bajaj does not want to proceed with the case though in the complaint there were allegations against two other persons, namely, Komal and Pinky Mukheja, who are the lady family members of the complainant and rather there is a truth in the statement made by Renu Bajaj that without her knowledge, the said complaint was got filed by petitioner Anu Kumari leveling false allegations of rape against the deceased.

Learned State counsel further submitted that the conduct of the petitioner as stated in Para 3 of the complaint, itself reveals that if there was any offence of rape committed by Dimple Mukheja upon the minor daughter of Renu Bajaj, then immediately, either Renu Bajaj or petitioner Anu Kumari on coming to know the said offence, would have approached the police and rather the petitioner would adopt a novel method to blackmail Dimple Mukheja and the family members of the

complainant got filed the complaint on the pretext that she is going to act as a counselor between Renu Bajaj and Dimple Mukheja and this fact itself shows that no such offence of rape was ever committed by Dimple Mukheja and it was a blackmailing tactic adopted by the petitioner to extort money from the family of the complainant which resulted into death of a young boy, aged about 19 years.

Learned State counsel also submitted that during investigation it has come that as many as 07 persons of the vicinity have also got recorded their statements before the Investigating Officer as noticed in the order of the Additional Sessions Judge that the petitioner has even extended threats to them to implicate them in a false complaints and in this regard they also lodged a complaint against the petitioner. Learned State counsel next submitted that the video uploaded by Dimple Mukheja on his WhatsApp status amounts to suicide note as he has clearly stated that he is committing suicide because of the threats extended by the petitioner.

Learned State counsel has submitted that the custodial interrogation of the petitioner is required not only to know the *modus operandi* adopted by the petitioner in an attempt to extort money from Dimple Mukheja but also with regard to the other complaints filed by 7/8 persons that the petitioner was extending threats to them. Learned State counsel has further submitted that the allegations in the video uploaded by the deceased, the filing of the false complaints levelling allegations of

character assassination on the deceased in the Court of law, which were found to be false by the own statement of the complainant in the said complaint who had withdrawn it subsequently by stating that at the instance of the petitioner, the same was filed, which clearly reveals that the deceased, who was a young boy of 19 years was put under such threat and pressure that he committed suicide and, therefore, it cannot be said that the offence under Section 306 IPC is not made out, at this stage.

In reply, the counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court in **Gangula Mohan Reddy Vs. State of A.P.**, 2010(1) RCR (Criminal) 603, wherein it has been held that when the allegations of theft were leveled against the deceased person, it will not amount to offence of abetment. Similar is the view taken by the Hon'ble Supreme Court in **S.S. Chheena Vs. Vijay Kumar Mahajan** 2010(4) RCR (Criminal) 66, wherein it has been held that in the absence of positive act on the part of the accused to instigate or aid in committing the suicide the conviction is not sustainable.

After hearing learned counsel for the parties, I find no merit in the present petition for the following reasons :-

- (a) The deceased was a young boy aged about 19 years and the petitioner using one Renu Bajaj as a tool got lodged a false complaint of rape of a minor girl, aged about 14 years and entangled the deceased and two lady members of family. As noted above, it is clearly mentioned in the

complaint that said complainant Renu Bajaj met petitioner Anu Kumari and offered to act as a counsellor and approached the deceased and her family members which itself reflects that the petitioner manipulated the said complaint to blackmail deceased Dimple Mukheja and his family members;

- (b) The said complaint was withdrawn by Renu Bajaj and later on, she made statement before the Investigating Officer that, in fact, she never voluntarily filed that complaint and it was the petitioner who approached and took her and her minor daughter to an Advocate to get their signatures on blank papers and, thereafter, the complaint was filed and on coming to know the contents of the complaint, she withdrew the same immediately. The fact that the complaint was instituted on 18.4.2022 but the statement of the complainant was not recorded by the said Court immediately, thereafter, reflects that, in fact, the complaint was filed only to put pressure on the complainant, which was, later on, withdrawn as the complainant found that the petitioner has manipulated a false case of rape of her daughter.
- (c) In the complaint, 03 persons were arrayed as accused, including deceased Dimple Mukheja and two ladies family members, however, the same was withdrawn as the complainant knew that it was a false complaint instituted at the instance of the petitioner only to extort money from the family of the deceased.

- (d) Even otherwise, for an ordinary citizen, on coming to know that heinous offence, like rape is committed, would immediately approach the police so that the medical examination of the victim could be conducted and the police may investigate the case on finding the truth in the allegations, may arrest the accused. However, in the instance case, the petitioner used the complaint as a tool to extort money and blackmail the family of the victim to such an extent that a young boy could not face the pressure of allegation pointing a finger towards his character.
- (e) The allegations in the FIR are clear that a day prior to the date of incident, the petitioner again visited the house of victim and extended threats to him and his family members.
- (f) The deceased in his WhatsApp status has stated that because of the petitioner he is committing suicide.
- (g) During investigation, 7/8 witnesses have come forward levelling allegations against the petitioner that in a similar matter, she is extending threat to them and, therefore, it is not a case where the concession of anticipatory bail is to be granted as the custodial interrogation of the petitioner is required.

In view of the above, this present petition stands dismissed.

May 19, 2022
satish

(ARVIND SINGH SANGWAN)
JUDGE

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