

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

CRM-M-26428-2022

Date of Decision:-17.08.2022

Varinderjit Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Naresh Kumar, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Aditya Dassaur, Advocate for the Complainant.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in the petition under Section 438 Cr.PC is for grant of anticipatory bail in case FIR No.57 dated 22.03.2022 under Sections 306, 34 IPC registered at Police Station Rama Mandi, Jalandhar.

The present FIR came to be registered at the instance of Preeti Verma, who stated that she was a housewife and had been married to Vijay Kumar for the last 30 years. They had two children i.e. One daughter namely Ritu and a son Himanshu Verma. Her daughter had performed a court marriage with Amritpal Singh son of Varinderjit Singh (present petitioner) in the year 2015 and after the marriage Amritpal Singh and his family members started harassing her daughter Ritu. Due to this harassment after three four months of marriage, Ritu came back to her parental home. Amritpal Singh and his father used filthy language with her family members and used to quarrel with them, therefore, Ritu filed a divorce case in the court which was still pending. On this count Amritpal Singh started harassing them even more and on account of this harassment Vijay Kumar

her husband remained mentally disturbed. Due to this mental depression Vijay Kumar would often say that he cannot tolerate this disgrace. On 22.03.2022 the deceased took his weapon from Police Station Rama Mandi which has been deposited on account of elections and shot himself. Based on the said complaint the present FIR came to be registered.

The petitioner has filed his anticipatory bail before this Court and on 14.6.2022 the following order was passed:-

“ Counsel inter alia contends that the son of the petitioner and Ritu, who were staying in the neighbourhood, had a run away marriage on 13.11.2014 and a protection order was also issued by this Court on 23.03.2015 (Annexure P-1). It is submitted that there were differences as such amongst the couple in as much as they were staying separately since 10.10.2015. A petition under Section 13 of the Hindu Marriage Act, 1955 for divorce was also filed by Ritu on 13.07.2017, in which serious allegations of rape were also levelled against the present petitioner, who is stated to be serving as an ASI in the police department. The matter is stated to be pending for cross examination of Ritu before the Family Court. It is pointed out that a sum of Rs.3,500/- per month is being paid as maintenance also.

It is submitted that a perusal of the FIR in question which has been lodged by the wife namely Preeti Verma of the deceased Vijay would go on to show that on account of the matrimonial dispute of the daughter, the deceased had become depressed. He had accordingly shot himself from the licensed revolver on 22.03.2022 after getting it back from the police station on 21.03.2022 after the elections. It is pointed out that the affidavit (Annexure P-8), on the basis of which the petitioner has been implicated, does not give any date as such and only talks about the fact that the petitioner and his son were responsible for his death and he was mentally harassed. The veracity of the same and the form in which it has been executed is also contested. It is pointed out that a similar affidavit (Annexure P-10) has also thereafter been furnished wherein, thumb impressions of the deceased have also been mentioned. It is accordingly contended that there is no specific role of abetment as such qua the petitioner and the children were living apart since the last 7 years.

Notice of motion.

Mr. A.A. Pathak, Addl. A.G., Punjab accepts notice on behalf

of respondent-State and Mr. Aditya Dassaur, Advocate has put in appearance on behalf of the complainant. They submit that the petitioner is working as an ASI and, therefore, had exerted a lot of pressure on the deceased and it is submitted that even a private complaint has been filed under Section 156(3) for registration of FIR under Sections 420, 498-A, 354-A, 354-B, 376, 120-B IPC and preliminary evidence is going on in the said proceedings and, therefore, the petitioner is not entitled for the benefit of interim protection.

It is not disputed that the petitioner's son was arrested on 23.03.2022 itself and has now been released on regular bail vide order dated 04.06.2022. The reasoning as such given by the Court is also that the challan has already been presented qua the said accused Amritpal Singh. It is also not in dispute that the petitioner as such is a police official and if he is taken into custody, he would be suspended.

In such circumstances, keeping in view the allegations which were levelled in the FIR itself, this Court is of the considered opinion that the benefit of interim bail is liable to be granted as the necessary averments regarding abetment as such are inherently prima facie missing and also the fact that the children were living separately since considerable time.

Adjourned to 17.08.2022.

In the meantime, it is directed that the petitioner shall join investigation and in the even of arrest, he shall be released on ad interim bail by the Investigating Officer. The petitioner shall join investigation as and when required and shall comply with the conditions laid down under Section 438(2) Cr.P.C.

State shall also file an affidavit as to what steps it had taken to secure the presence of the petitioner between 12.04.2022, when the first bail application was dismissed as withdrawn till 24.05.2022, when the second bail application has been dismissed by the Additional Sessions Judge, Jalandhar.

Counsel for the petitioner submits that since the petitioner and complainant party are living opposite each other, due restraint will be exercised by the petitioner and he will not interfere in any manner with the complainant party.”

In pursuance to the above order, the petitioner has joined investigation.

The Counsel for the State has filed a reply dated 17.08.2022 by way of affidavit of Mr. Ashwani Kumar, Assistant Commissioner of Police Central, Jalandhar in court. The same is taken on record.

The Counsel for the petitioner submits that pursuant to the interim order dated 14.6.2022 the petitioner has joined investigation. He contends that taking the contents of the FIR be correct no offence under Section 306 IPC is made out. Further the affidavits Annexure P-8 & P-10 which are stated to be some sort of suicide notes would also not inculcate the petitioner because a bare reading of the said affidavits would show that there is nothing to suggest that the petitioner or his co-accused abetted the commission of suicide by the deceased. Mere harassment, if at all does not constitute abetment. He contends that pendency of litigation between the parties would also not amount to abetment. In fact, the son of the petitioner and the alleged main accused Amritpal Singh who is the husband of Ritu Verma, daughter of the complainant has been granted the concession of regular bail. Even otherwise, report under Section 173(2) Cr.PC stands submitted against Amritpal Singh and in such a situation the custodial interrogation of the petitioner is not required.

The Counsel for the State on the other hand while referring to the contents of the affidavit dated 17.08.2022 contends that the petitioner has joined investigation. As per their investigation two suicide notes were recovered along with a .32 bore revolver, one shell, two missed bullets and three live bullets. The petitioner had filed an application for reinvestigation of the case and for declaring him innocent. The said application was entrusted to the then ACP Central and thus the complete case file was sent by the IO to the then ACP Central on 25.3.2022 and inquiry was being conducted by him. Therefore, raids to arrest the accused could not be conducted by the IO after dismissal of the anticipatory bail application of the petitioner on 12.4.2022. Subsequently, the case file was received by the MHC on 10.05.2022 as the challan against Amritpal Singh was to be filed. On 20.05.2022 the raid was again conducted by the IO to arrest the petitioner, however, he could not be arrested. Thereafter, the petitioner had filed his second anticipatory bail which was dismissed by the Court of

Additional Sessions Judge, Jalandhar vide order dated 24.5.2022 pursuant to which the present anticipatory bail application was filed. Thus an attempt has been made to explain to this Court as to the circumstances under which no attempt had been made to secure the presence of the petitioner between 12.4.2022 when the first application for bail was dismissed as withdrawn till 24.5.2022 when the second bail application was dismissed by Additional Sessions Judge, Jalandhar. It is the contention of the learned Counsel for the State that the petitioner does not deserve the concession of anticipatory bail.

The Counsel for the complainant on the other hand contends that though the petitioner has joined investigation, he does not deserve the concession of anticipatory bail as he has been duly named in the suicide notes Annexure P-8 & P-10. He further contends that being a police official he was repeatedly harassing the complainant and her family members including the deceased. The harassment therefore amounts to abetment as envisaged under Section 306 IPC. It is lastly contended that in fact a private complaint had been instituted against Amritpal and the petitioner under Sections 420, 498-A, 354-A, 354-B, 376-B and 120-B IPC, therefore, the present petitioner did not deserve the concession of anticipatory bail.

I have heard learned Counsel for the parties at length.

Admittedly the petitioner was granted the concession of interim anticipatory bail and has since joined investigation. It is the son of the petitioner and main accused Amritpal Singh who has been granted the concession of regular bail vide order dated 4.6.2022 and the challan qua him already stands submitted. It would be a matter of adjudication during the trial as to whether the contents of the FIR read with the purported suicide notes would amount to abetment as envisaged under Section 306 IPC. At this stage the custodial interrogation of the petitioner is not required.

In view of the above, interim order dated 14.06.2022 is made absolute.

However, the petitioner shall keep on joining the investigation as and when required to do so and he shall abide by the conditions as envisaged under Section 438(2) Cr.P.C.

If any attempt whatsoever is made by the petitioner and/or his family members/friends to contact/threaten/intimidate any of the witnesses

of the occurrence, the State/complainant shall be at liberty to move an application for cancellation of bail granted vide this order.

Petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

August 17, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>