

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

CRM-M-35252-2022
Date of decision: 9.8.2022

Nirmal Kaur

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. H.S. Dhindsa, Advocate, for the petitioner.
Mr. Rakeshinder Singh Sidhu, AAG, Punjab.
Mr. R.S. Atwal, Advocate, for the complainant.

RAJESH BHARDWAJ, J.

The petitioner has approached this Court praying for grant of anticipatory bail in a case FIR No.107, dated 8.7.2022, registered under Section 306 IPC, at Police Station Bullowal, District Hoshiarpur.

Succinctly, the facts of the case are that the complainant/first informant Manjinder Singh lodged the present FIR. It was alleged that his eldest daughter Harmanpreet Kaur was married with Harmandeep singh on 10.2.2018. After the marriage, her in-laws allowed his daughter to remain in the matrimonial home for 9 months. She was made to reside with her Chachi Saas (paternal mother-in-law), namely, Nirmal Kaur and Rajinder Singh (Chacha Sasur), who were living in India. Soon after the marriage, the husband, mother-in-law and father-in-law of his daughter shifted to Canada and till date they are living in Canada. They used to ask the deceased to marry her younger sister Jasneet Kaur with the cousin of her husband. On not

agreeing with the same, they asked the complainant to take his daughter back and as a result the complainant brought his daughter back to his home. A case was also filed against them in the Court. On 07.07.2022, when the complainant and his wife returned from the fields, they found that their daughter had consumed some poisonous substance due to harassment caused by her in laws. Thereafter, he got his daughter admitted in the hospital where she died during treatment. Request was made to take legal action against the accused. The FIR was registered and the investigation commenced. Apprehending arrest, the petitioner approached the Court of learned Additional Sessions Judge, Hoshiarpur for grant of anticipatory bail, who after hearing both the sides declined the same vide order dated 19.07.2022. Aggrieved by the same, the petitioner has approached this Court by way of filing the present petition for grant of anticipatory bail.

Learned counsel for the petitioner has contended that the petitioner has been falsely and frivolously implicated in this case. He has submitted that the petitioner is the Chachi Saas of the deceased and as she is not in immediate relation with the deceased, her complicity in the case is not made out. He submits that the deceased Harmanpreet Kaur got married on 10.02.2018 and due to matrimonial discord between the husband and wife, she left the matrimonial home on 08.11.2018. Thereafter, she never returned to the matrimonial home. He submits that she was residing with her parents and committed suicide at her parental home only on 07.07.2022. The petitioner was never in touch with the deceased during this period and, thus, there was no question of any instigation on the part of the petitioner provoking the deceased to commit suicide. He submits that in the facts and circumstances of the case, ingredients of Section 107 IPC are not fulfilled and, thus, offence under

Section 306 IPC is not made out against the petitioner. He submits that since the deceased wanted to go to Canada, but due to the requisite conditions being not fulfilled delay was being caused due to which the deceased was upset which ultimately compelled her to commit suicide. He has submitted that the complainant has levelled general and omnibus allegations against the petitioner in order to harass her. He has submitted that in the facts and circumstances of the case, the petitioner who has no criminal antecedents, deserves to be granted anticipatory bail.

Learned counsel for the complainant has opposed the submissions made by learned counsel for the petitioner. He has submitted that a young bride was deserted by her in-laws soon after the marriage. He submits that the husband, mother-in-law, father-in-law of the deceased soon after the marriage shifted to Canada leaving behind the young bride i.e. the deceased. In the absence of the in-laws, she was made to reside with the petitioner, namely, Nirmal Kaur, who caused harassment to the deceased unabated. He has submitted that she was turned out of the matrimonial home after 9 months of her marriage. The deceased thereafter started residing with her parents and finally she lodged FIR No.24, dated 29.02.2020, under Sections 406, 498-A IPC, at Police Station Bulowal, District Hoshiarpur against the petitioner and her in-laws. He has submitted that in the absence of in-laws, the petitioner left no stone unturned in harassing the deceased and, ultimately, she committed suicide at her parental home on 07.07.2022. He has submitted that the complicity of the petitioner in instigating the deceased to commit suicide is writ large and, thus, she deserves no leniency and hence, the prayer for grant of anticipatory bail be rejected.

Learned State counsel also states that the petitioner is involved in a heinous crime when a young bride has lost her life due to the harassment caused to her by her in-laws and the petitioner and as such the petitioner is not entitled for the grant of anticipatory bail.

Heard.

Admittedly, the deceased committed suicide within 4 years of her marriage. Soon after the marriage, the husband, mother-in-law and father-in-law left India for settling in Canada and till date they are there. In the absence of her in-laws, the deceased was made to reside with the petitioner who harassed her for marrying her younger sister with the cousin of her husband. Neither she was taken by her husband to Canada nor she was allowed to remain in matrimonial home by the petitioner as alleged in the FIR. The investigation of the case is at threshold. In the facts and circumstances of the case, the suicide by the deceased at her parental home needs to be investigated thoroughly. Hon'ble the Supreme Court in State represented by CBI Vs. Anil Sharma, (1997) 7 SCC 187 has held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under [Section 438](#) of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that

responsible Police Officers would conduct themselves in task of disintering offences would not conduct themselves as offenders.”

The Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632 has held as under:-

“31. In regard to anticipatory bail, if the proposed accusation appears to stem not from motives of furthering the ends of justice but from some ulterior motive, the object being to injure and humiliate the applicant by having him arrested, a direction for the release of the applicant on bail in the event of his arrest would generally be made. On the other hand, if it appears likely, considering the antecedents of the applicant, that taking advantage of the order of anticipatory bail he will flee from justice, such an order would not be made. But the converse of these propositions is not necessarily true. That is to say, it cannot be laid down as an inexorable rule that anticipatory bail cannot be granted unless the proposed accusation appears to be actuated by mala fides; and, equally, that anticipatory bail must be granted if there is no fear that the applicant will abscond. There are several other considerations, too numerous to enumerate, the combined effect of which must weigh with the court while granting or rejecting anticipatory bail. The nature and seriousness of the proposed charges, the context of the events likely to lead to the making of the charges, a reasonable possibility of the applicant's presence not being secured at the trial, a reasonable apprehension that witnesses will be tampered with and "the larger interests of the public or the state" are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail. The relevance of these considerations was pointed out in State v. Captain Jagjit Singh (1962) 3 SCR 622, which, though, was a case under the old Section 498 which corresponds to the present Section 439 of the Code. It is of paramount consideration to remember that the freedom of the individual is as necessary for the survival of the society as it is for the egoistic purposes of the individual. A person seeking

anticipatory bail is still a free man entitled to the presumption of innocence. He is willing to submit to restraints on his freedom, by the acceptance of conditions which the court may think fit to impose, in consideration of the assurance that if arrested, he shall be enlarged on bail.

In the abovesaid case, the Hon'ble Supreme Court has held that the Court is to draw a balance between the right of liberty of the individual and overall interest of the society. However, overall interest of the society would prevail upon the right of liberty of the individual. The Hon'ble Apex Court in plethora of judicial precedents has time and again reiterated that while considering the anticipatory bail the Court is to take into consideration the factors like gravity of offence, chances of accused tampering with the evidence and probabilities of fleeing from justice etc. The Court should be circumspect about the impact of its decision on the society as well. Learned counsel for the complainant has contended that the accused are influential persons and in-laws of the deceased are already residing abroad and there is every possibility that the petitioner would also escape from the country. The anticipatory bail is an extraordinary discretion which can be exercised in the extraordinary circumstances. Weighing the facts and circumstances of the case on the anvil of law settled, this Court is of the opinion that the petitioner does not qualify for exercising the extraordinary power by this Court in her favour. Resultantly, the petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

09.08.2022
sharmila

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No