

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-36106-2022

Date of decision : 27.10.2022

Basant and another

... Petitioners

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Rajat Mor, Advocate for
for the petitioners.

Mr.Praveen Bhadu, AAG, Haryana.

VIKAS BAHL, J.(ORAL)

This is a second petition under Section 439 Cr.P.C. for grant of regular bail to the petitioners in FIR no.46 dated 20.02.2022 registered under Section 306, 506 IPC (Section 34 IPC added later on) at Police Station Sadar Jhajjar, District Jhajjar, Haryana.

Learned counsel for the petitioner has submitted that the petitioners have been in custody since 06.04.2022 and the investigation is complete and the challan has already been presented and there are 20 witnesses and out of which, none have been examined and thus, the trial is likely to take time. It is submitted that earlier bail application filed by the petitioners was withdrawn at that stage on 08.07.2022 as at that stage, challan had not been filed and now the challan has been filed. It is stated that the petitioners are not involved in any other case and the petitioners have been falsely implicated in the present case. It is submitted that Gopi

had not left any suicide note and the FIR no.61 dated 20.02.2022 under Sections 354, 365, 506, 34 IPC at Police Station Sector 14, Gurugram (Annexure P-2) was registered by Bhawna, daughter of petitioner no.1 at 4:28 hours on 20.02.2022 and in the said FIR, it had been stated that deceased Gopi, along with two other boys had kidnapped her and molested her and even she had given her statement under Section 164 Cr.P.C. before the Magistrate on 20.02.2022 (Annexure P-3) and it was subsequent to the registration of the said FIR, when said Gopi was called to the police station, that Gopi had committed suicide and the complainant, who is the father of Gopi, has registered the present FIR on the false allegation that Bhawna wanted to marry Gopi and that the petitioners were threatening him and thus, he had committed suicide.

Learned State counsel, on the other hand, has opposed the present petition for regular bail and has submitted that as per the FIR, it is the petitioners who had threatened the deceased Gopi and had restrained Gopi from solemnising the marriage with Bhawna, who is daughter of petitioner no.1.

Learned counsel for the petitioners, in rebuttal, has submitted that no dates pertaining to the threats allegedly given to the deceased have been mentioned in the FIR and thus, the offence under Section 306 IPC would not be attracted on the basis of allegations levelled in the FIR.

This Court has heard learned counsel for the parties and has perused the paper book.

The petitioners have been in custody since 06.04.2022 and the investigation is complete and the challan has already been presented and

the trial is likely to take time. The earlier bail application filed by the petitioners was dismissed as withdrawn at that stage on 08.07.2022 when the challan had not been filed and subsequent to the same, the challan has been filed, entitling the present petitioner to file the present second regular bail petition. The petitioners are stated to be not involved in any other case. There is no suicide note left by deceased Gopi and FIR no.61 dated 20.02.2022 registered by daughter of petitioner no.1 under Sections 354, 365, 506, 34 IPC at Police Station Sector 14, Gurugram, was registered prior in time to the present FIR, and the same would show that the complainant therein i.e., Bhawna had stated that Gopi (deceased) and two other persons had kidnapped her and molested her and said Bhawna had reiterated the said fact even before the Judicial Magistrate Ist Class, Gurugram in a statement under Section 164 Cr.P.C. on 20.02.2022. It is the case of the petitioners that on account of being scared to be prosecuted by the police, said Gopi had committed suicide and further there are no details or dates given in the FIR with respect to the alleged threats given by the petitioner to the deceased Gopi. At any rate all the said issues would be adjudicated during the course of the trial.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioners are ordered to be released on bail on their furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to them not being required in any other case.

However, it is made clear that in case, any act is done by the petitioners to threaten or influence the complainant or any of the witnesses,

bail granted to the petitioners.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

October 27, 2022
Davinder Kumar

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