

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103+105+106

CRM-3620 of 2022 in/and
CRM-M-44902 of 2021
Date of Decision:14.02.2022

Paramjit

Versus

..... Petitioner

State of Punjab

..... Respondent

CRM-4691 of 2022 in/and
CRM-M-48793 of 2021

Heena Teji

Versus

..... Petitioner

State of Punjab

..... Respondent

CRM-M-5081 of 2022

Kiran

Versus

..... Petitioner

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rishu Mahajan, Advocate,
for the petitioner in CRM-M-44902 of 2021

Mr. Ranjeet Kumar Jaswal, Advocate,
for the petitioners in CRM-M-48793 of 2021
and CRM-M-5081 of 2022

Mr. Sidakmeet Sandhu, AAG, Punjab.

Mr. Jasraj Singh, Advocate,
for the complainant.

AMOL RATTAN SINGH, J. (ORAL)

Case heard via video conferencing.

CRM-3620 of 2022

Vide this application, the petitioner in the accompanying petition seeks to place on record what are stated to be downloaded print-outs of posts shared by the deceased on the social-media platform Facebook, under the ID of Navdeep Bassi and Deep Heena (as contended).

Notice in the application.

Mr. Sidakmeet Sandhu, learned AAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State, with Mr. Jasraj Singh, Advocate, accepting notice on behalf of the complainant (though the complainant has not been formally impleaded as a respondent in the petition).

Learned counsel for the State and complainant do not object to the application being allowed but submit that the authenticity and any significance of such posts would obviously be argued upon by them.

Consequently, without making any comment at this stage on the authenticity or the significance of the aforesaid posts, the application is allowed and the aforesaid posts are ordered to be taken on record as Annexure P-3 collectively with the accompanying petition, alongwith their translated version.

CRM-M-44902 of 2021

Vide this petition, the petitioner seeks the concession of 'anticipatory bail' under the provisions of Section 438 of the Cr.P.C., upon FIR no.156, dated 19.09.2021, having been registered at Police Station Sadar Hoshiarpur, alleging therein the commission of offences punishable under Sections 306 of the IPC, read

with Section 34 thereof.

The petitioner not having been admitted to interim bail at the initial stage on 02.11.2021 while notice of motion was issued by this court, subsequently learned counsel for the parties had been directed to address arguments in terms of the judgment of the Supreme Court in **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)** Law Finder Doc Id # 201861, but with the matter still not having been effectively argued and with no detailed reply having been filed by the State despite directions of this court, eventually on 21.12.2021, essentially for that reason (that the State had not filed any reply in more than 1½ months), the petitioner had been directed not to be arrested at that stage.

On 07.01.2022 the following order had been passed by this court:-

“Case heard via video conferencing.

The reply filed by the Deputy Superintendent of Police, Sub Division City, District Hoshiarpur, dated 21.12.2021, is ordered to be taken on record.

Today, a query has been put by this court to learned counsel for the complainant as to why the petitioners in these petitions should not be admitted to bail in view of the fact that the deceased committed suicide on account of matrimonial disharmony, and therefore, possibly different persons would react differently to such a situation.

It has also been put to learned counsel as to whether there was any active humiliation of the deceased by the petitioners, to which he very fairly submits that at this stage there may not be sufficient evidence to show such active humiliation in public, however, with the wife of the deceased, i.e. the petitioner in CRM-M-48793-2021, not even having informed the parents of the deceased that he had sent her a video recording stating that he would commit suicide, so that they could take steps to try and ensure that he does not take that kind of a

step, she in any case does not deserve to be admitted to anticipatory bail, even though the deceased in his video recording had stated that he did not want any action to be taken against her, on account of his love for her.

As regards the petitioner in CRM-M-44902-2021 (Paramjit), he submits that he being the person responsible for the discord in the marriage, it would amount to instigation even in terms of Section 107 of the IPC (abetment) as interpreted by the Supreme Court in **Chitresh Kumar Chopra vs. State (Govt. of NCT of Delhi)** Law Finder Doc Id # 201861.

He next submits that the order passed by this court in the case of co-accused of the petitioners, i.e. in the case of Kunal Teji, dismissing his bail petition, has been challenged before the Supreme Court, with that matter to come up for hearing before their Lordships on 11.01.2022.

Adjourned to 13.01.2022.

Interim order to continue, till the next date of hearing. ”

On 27.01.2022, counsel for the complainant could not be present due to some network issue (at the stage when the petition was actually heard, though he did come present immediately thereafter); and consequently the earlier interim order being that the petitioner be not arrested, he had been directed to join investigation and upon so joining, if he was sought to be arrested, he was directed to be admitted to interim bail, till the next date of hearing before this court.

Today learned counsel for the petitioner submits that though a similar petition filed by the co-accused of the petitioner, i.e. Kunal Teji, has been dismissed by this court on 02.11.2021 itself, and that order has been upheld by the Supreme Court, there is a marked difference between the situation of the petitioner

herein (Paramjit) and Kunal Teji, inasmuch as Kunal Teji is the brother of the wife of the deceased, i.e. brother of Heena Teji, who is the petitioner in CRM-M-48793 of 2021, whereas the petitioner is only a friend of the elder brother of Kunal Teji and consequently, he cannot be assigned the same role and put on the same footing as Kunal Teji; and that actually the only involvement at all of the petitioner, if at all it can be called involvement, was that he accompanied the family of Heena Teji when she was returning from her in-laws home in Hoshiarpur to her parental home in Jalandhar.

Learned State counsel however on the other hand refers to the affidavits filed by the DSP, Hoshiarpur, dated 21.11.2021 and 21.12.2021, to submit that in fact Heen Teji, her mother Kiran, her brother Kunal and Kunals' friend (the petitioner Paramjit @ Pammi) were alleged to have been interfering in the married life of the deceased and Heena Teji, due to which there remained constant disturbance in the family, and with all the aforesaid persons having pressurised the deceased to live separately from his family members and to purchase a house in the name of Heena Teji.

The deceased having refused to do the same, she started spending most of the time in her parental home at Jalandhar, with Panchayats convened at different points of time to settle the dispute, due to which (the deceased) Navdeep consumed poison and died, with him also having got his statement recorded at the hospital before his death, in the presence of the doctor, that the petitioner and other co-accused are all responsible for his death.

The second affidavit of the DSP further states that in fact the victim, Navdeep, made his statement on 19.09.2021 at 12:25 a.m., even to ASI Raj Kumar,

to the same effect, naming the petitioner also, alongwith his mother-in-law and brother-in-law, with at that point of time the subsequently deceased Navdeep being fully conscious.

Thereafter the complainant (brother of the deceased) is also stated to have produced the mobile phone of the deceased and three pen-drives containing video clips, in which the deceased had given details as to how he was “instigated to commit suicide”, with him “exonerating his wife and father-in-law” but implicating the petitioner and his other co-accused, i.e. Kunal Teji and the mother of Heena Teji, i.e. Kiran.

Thus, it is stated that there being serious and specific allegations against the petitioner, his custodial interrogation is very much required for a thorough probe of the FIR and consequently the petition be dismissed.

Upon query to learned counsel for the complainant (as was earlier put by this court), as to why the petitioner should be put on the same footing as Kunal Teji and in any case with different people reacting to matrimonial disputes differently, he submits that, firstly, it was not the family of Heena Teji who brought her back from her matrimonial home in Hoshiarpur to her parental home in Jalandhar, but in fact as per a video footage of October 2020, it was the petitioner alone who took Heena Teji from her matrimonial home to Jalandhar; and further, contrary to what learned counsel for the petitioner has argued to the effect that the petitioner lives in Jalandhar, with the deceased living in Hoshiarpur, in fact Heena Teji continued to reside in Jalandhar thereafter, where the petitioner also resides; and most importantly, the deceased in his video recording prior to his death specifically stated that the family of his wife, i.e. Heena Teji, should avoid

all kinds of contact with the petitioner because he would not let Heena settle in any matrimonial home.

Learned counsel therefore submits that the petitioner cannot state that he is on a better footing than Kunal Teji, with him actually being on a worse footing to even the brother of the wife of the deceased.

Other than that, he of course reiterates what has been submitted by learned State counsel on the basis of the affidavit of the DSP.

Counsel for the petitioner on the other hand rebuts the aforesaid contentions to submit that the petitioner is ready to hand over his mobile phone to the police to determine as to whether, ever since October 2020 till the date that the deceased died, the petitioner was ever involved in taking Heena Teji alone from her matrimonial home to Jalandhar or anywhere else.

Mr. Jasraj Singh, learned counsel for the complainant on the other hand submits that he has the video footage available with him, with a copy of the footage having been duly given to the investigating agency.

Before closing this case, it is first considered necessary to reproduce the order passed by this court in the case of Kunal Teji, though of course thereafter it would be considered as to whether the petitioner deserves to be treated on the same footing or not.

The said order, dated 02.11.2021, passed in CRM-M-42765 of 2021, reads as follows:-

“Case heard by video conferencing.

By this petition, the petitioner seeks the concession of 'anticipatory bail' upon FIR No. 156 having been registered at Police Station Sadar, District Hoshiarpur, on 19.09.2021, alleging therein

the commission of offences punishable under the provisions of Sections 306 and 34 of the IPC.

On 11.10.2021, the following order had been passed by this Court:

Case heard by way of video conferencing.

Notice of motion be issued to the respondent, returnable on 02.11.2021.

A gazetted officer is directed to file a detailed reply to the petition, failing which the SSP concerned shall be summoned to court.

Along with the affidavit to be filed, the dying declaration stated to have been made by the deceased in the hospital (as has been noticed in the order of the learned Addl. Sessions Judge, Hoshiarpur, dated 28.09.2021), shall be annexed.

*Counsel for the petitioner would also address arguments on the next date of hearing in terms of the judgment of the Supreme Court in **Chitresh Kumar Chopra v. State (Govt. of NCT of Delhi)** (Crl. Appeal no.1473 of 2009, decided on 10.08.2009), wherein what constitutes “instigation” in the context of an offence punishable under Section 306, has been elucidated in detail by the Apex Court.*

Learned counsel appearing for the complainant submits that as a matter of fact, other than the dying declaration, there is also a videography one day prior to the death of the deceased, giving therein the details of how he has been (allegedly) instigated to commit suicide, with him exonerating his wife and father and only implicating the petitioner and his co-accused, Paramjit Singh @ Pammi, as also his wife's mother, Kiran.”

A short affidavit has been filed by the Deputy Superintendent of Police, Sub Division City, District Hoshiarpur, on behalf of the

respondent-State, which is ordered to be taken on record.

As per the said affidavit (which seems to reiterate the contentions of learned counsel for the complainant as recorded in the order dated 11.10.2021), the deceased in his video recording prior to his death implicated the petitioner herein (KunalTeji, brother of the wife of the deceased), as also other co-accused, but exonerated his wife and her father.

Though learned counsel for the petitioner obviously argues that the deceased having committed suicide and he not having directly instigated him to do so by any of the accused including the present petitioner; however, what needs to be cited by this Court is the following part of what has been held by the Supreme Court in paragraphs 14 and 15 in the case of Chitresh Kumar Chopra (supra):

"14. As per clause firstly in the said Section, a person can be said to have abetted in doing of a thing, who "instigates" any person to do that thing. The word "instigate" is not defined in the IPC. The meaning of the said word was considered by this Court in Ramesh Kumar Vs. State of Chhattisgarh⁴. Speaking for the three-Judge Bench, R.C. Lahoti, J. (as His Lordship then was) said that instigation is to goad, urge forward, provoke, incite or encourage to do "an act". To satisfy the requirement of "instigation", though it is not necessary that actual words must be used to that effect or what constitutes "instigation" must necessarily and specifically be suggestive of the consequence. Yet a reasonable certainty to incite the consequence must be (2001) 9 SCC 618 capable of being spelt out. Where the accused had, by his acts or omission or by a continued course of conduct, created such circumstances that the deceased was left with no other option except to commit suicide, in which case, an "instigation" may have to be inferred. A word uttered in a fit of anger or emotion without intending the consequences to actually follow, cannot

be said to be instigation.

15. Thus, to constitute "instigation", a person who instigates another has to provoke, incite, urge or encourage doing of an act by the other by "goading" or "urging forward". The dictionary meaning of the word "goad" is "a thing that stimulates someone into action: provoke to action or reaction" (See: Concise Oxford English Dictionary); "to keep irritating or annoying somebody until he reacts" (See: Oxford Advanced Learner's Dictionary - 7th Edition). Similarly, "urge" means to advise or try hard to persuade somebody to do something or to make a person to move more quickly and or in a particular direction, especially by pushing or forcing such person. Therefore, a person who instigates another has to "goad" or "urge forward" the latter with intention to provoke, incite or encourage the doing of an act by the latter. As observed in Ramesh Kumar's case (*supra*), where the accused by his acts or by a continued course of conduct creates such circumstances that the deceased was left with no other option except to commit suicide, an "instigation" may be inferred. In other words, in order to prove that the accused abetted commission of suicide by a person, it has to be established that: (i) the accused kept on irritating or annoying the deceased by words, deeds or wilful omission or conduct which may even be a wilful silence until the deceased reacted or pushed or forced the deceased by his deeds, words or wilful omission or conduct to make the deceased move forward more quickly in a forward direction; and (ii) that the accused had the intention to provoke, urge or encourage the deceased to commit suicide while acting in the manner noted above. Undoubtedly, presence of *mens rea* is the necessary concomitant of instigation.

In view of the above, this being a petition seeking anticipatory bail for the petitioner under Section 438 Cr.P.C., there being, allegedly, at least some instigation on the part of the petitioner in terms of what has been held to be instigation by the Supreme Court, I find no ground to entertain this petition, which is consequently dismissed.

However, upon the petitioner being arrested, on him filing any petition under the provisions of Section 439 Cr.P.C., that would be considered on its own merits, with the investigation also to continue wholly on the basis of the evidence gathered.

The reply filed on behalf of the respondent-State is ordered to be taken on record.”

It is to be also noticed of course that in both the affidavits filed by the DSP, it has been specifically stated (as already noticed earlier), that the custodial interrogation of the petitioner is very much required for a thorough probe into the matter; and further, as regards the contention of learned counsel for the petitioner that he is ready to hand over his mobile phone even as regards his presence anywhere ever since October 2020 till the date of the death of the deceased, at least for the purpose of this petition that may not be material because the location of a person on the basis of his mobile phone though may be significant otherwise, is no firm proof of him or her being present at any specific place, with the person easily able to leave his mobile phone anywhere else; though of course all evidence even with regard thereto has to be considered in toto by the investigating agency and the competent court.

Consequently, even on the touchstone of the ratio of the judgment of the Supreme Court in *Chitresh Kumar Chopra* (supra), wherein it has been very

elaborately detailed as to what instigation would be, wholly for the purpose of this petition alone, I do not find the contentions of learned counsel for the petitioner, or the merits of the case, to be enough ground to admit the petitioner to the concession of anticipatory bail at least, and consequently this petition is dismissed, with the interim order vacated.

Naturally however, all observations and comments made by this court in any orders passed in this petition, will be taken to be such only in the context of a petition filed under the provisions of Section 438 of the Cr.P.C. and the investigating agency would continue with its investigation regardless of such comments, wholly on the basis of the evidence gathered; and the competent court to which any report is submitted would naturally also consider such report on the basis of evidence presented before it.

If the petitioner is arrested and seeks to be admitted to bail under the provisions of Section 439 of the Cr.P.C., such petition would also be considered on its own merits at the appropriate stage.

CRM-4691 of 2022

Vide this application, the petitioner in the accompanying petition seeks to place on record what are stated to be screen shots of telephone calls and messages exchanged between her and her father-in-law, i.e. the father of the deceased Navdeep Bassi, on 18/19.09.2021.

Notice in the application.

Mr. Sidakmeet Sandhu, learned AAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State, with Mr. Jasraj Singh, Advocate, accepting notice on behalf of the complainant (though again in this case

also the complainant has not been formally impleaded as respondent no.2).

They both do not oppose the application as regards taking on record the aforesaid documents, though in this case also they submit that they may have something to argue on the authenticity thereof and the significance thereof.

Consequently, without making any comment on the actual authenticity or the significance of the aforesaid print-outs of the screen shots, they are ordered to be taken on record as Annexurex P-5 to P-7 and P-9 & P-10 with the accompanying petition.

Annexure P-8 is shown to be a copy of an application addressed by the applicant-petitioner to the person incharge of Police Post Surya Enclave, Jalandhar, on 18.09.2021, stating therein that she had been receiving calls from her husband, Navdeep Bassi, that he would commit suicide and therefore he was constantly harassing her and also sending her videos of consuming some medicine as also a suicide note.

Without making any comment on the authenticity of the aforesaid document, in view of what is being noticed in the main petition itself, the copy of the said document is also ordered to be taken on record as Annexure P-8 with the accompanying petition.

CRM-M-48793 of 2021

Vide this petition, the wife of the deceased seeks to be admitted to bail in the context of the same FIR.

It is to be noticed that as recorded in previous orders passed by this court, learned counsel for the complainant had constantly stated that though the deceased in his suicide note and his video recording had stated that he did not wish any action to be taken against his wife, i.e. the petitioner Heena Teji, on account of

the fact that he loved her very much, yet, he had submitted that she never even having informed her in-laws that he had been recording videos and telling her on the phone that he would commit suicide, she does not deserve to be admitted to bail.

Today, he submits in response to the application filed that a perusal thereof would show that even though there are calls shown to be made (as per Annexure P-10) between the petitioner and the father of the deceased on 18.09.2021 at 11:37 a.m., obviously the contents thereof are not visible anywhere; and that as regards the calls made in the evening of the same date, they were after he had already consumed poison and of course even then it is not sure as to what is stated in the conversations, the screen shots only being of the fact that out-going calls are shown to have been made by Heena Teji.

He next submits that the first video made by the deceased stating that he would commit suicide, was 16.09.2021, which also he had duly conveyed to the petitioner, i.e. his wife, despite which she did not inform his parents or his family members of the same.

Learned counsel for the petitioner responds by stating that in fact though the deceased had sent the video to the petitioner on 16.09.2021, he had immediately deleted that within a few minutes.

Though otherwise this court is to see the merits of the case and possibly not any sentiments of the deceased if otherwise the merits of the matter do indicate that the custodial interrogation of an accused is required; yet, with learned counsel for the petitioner also submitting that the petitioner being a lady and the main allegations of instigation etc. being against Paramjit and her brother Kunal Teji (though of course also against her in terms of the ratio of the judgment in *Chitresh Kumar Chopra* supra), in the opinion of this court, in the entire circumstances, looking at the fact

that she is a woman whose custodial interrogation may possibly not be required, despite the affidavit of the DSP being to the contrary, with the petitions of two of her male co-accused having been dismissed, this petition is allowed and the interim order passed on 27.01.2022 is made absolute.

However, it is made absolutely clear that admitting the petitioner to bail would not indicate the opinion of this court on the merits of the case at all in any manner whatsoever, and the proceedings as regards the investigation would continue wholly on the basis of evidence gathered, and eventually presented before the competent court, which would again go into the matter as per such evidence.

CRM-M-5081 of 2022

The petitioner in this petition is the mother-in-law of the deceased, i.e. the mother of Heena Teji, who has been ordered to be admitted to bail hereinabove.

Though learned counsel for the complainant also opposes her being admitted to bail on the ground that she is also very much implicated in the suicide note and video recording of the deceased, and her case is therefore on *par* with Kunal Teji and Paramjit, whose petition has been dismissed hereinabove, again only for the reason that she is a woman and her custodial interrogation may not reveal anything much other than what the custodial interrogation of her co-accused, i.e. her son Kunal Teji and the aforesaid Paramjit may reveal, without making any comment on the merits of this case also, the petitioner is directed to join investigation within one week and upon her so joining, in case she is sought to be arrested, she shall be released on interim bail, upon her furnishing adequate bail and surety bonds to the satisfaction of the arresting officer/Duty Magistrate, till the

next date of hearing.

She shall also comply with all conditions stipulated in Section 438(2) of the Cr.P.C.

If the arresting officer does not join the petitioner in investigation, she would appear before the learned Ilaqa Magistrate immediately, who would then summon the arresting officer and direct him to join her in investigation.

Adjourned to 04.04.2022.

A copy of this order be also placed on the file of the other connected matters too.

February 14, 2022
dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes