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

**CRM-M-11133-2023 (O&M)
Date of Decision: 03.05.2023**

Sandeep Singh and another

....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioners.

Mr. Harjinder S. Sidhu, A.A.G., Punjab.

Mr. Bipan Ghai, Senior Advocate assisted by
Mr. Nikhil Ghai, Advocate and
Ms. Malini Singh, Advocate and
Mr. Gaurav Dutta, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

Prayer in the present petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioners in case FIR No.70, dated 18.07.2022 (Annexure P-1), registered under Section 306 of the Indian Penal Code read with Section 34 of the Indian Penal Code, at Police Station Bhadson, Patiala.

2. On 03.03.2023 the following order was passed by this Court :-

“Present petition under Section 438 of the Code of Criminal Procedure is filed seeking grant of anticipatory bail to the petitioners in case FIR No.70 dated 18.07.2022 (Annexure P-1), under Section 306 of the Indian Penal Code read with

Section 34 of the Indian Penal Code, registered at Police Station Bhadson, Patiala.

Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the aforesaid FIR (Annexure P-1), on the basis of statement of complainant, namely Gurinder Singh, who stated that his son-Jasmit Singh (deceased) had left the house on 12.07.2022 and his dead body was found in the Canal on 16.07.2022. It is further submitted that the deceased had also uploaded a photograph on his social media account on 12.07.2022 (Annexure P-2), before committing suicide, wherein he is standing next to the Canal and in the caption, he has written a final goodbye message, clearing indicating his intention to commit suicide, without holding anyone responsible for the same. Learned counsel states that pursuant to registration of the present FIR (Annexure P-1), the petitioners had moved a representation before the Senior Superintendent of Police, Patiala, for conducting a fair and impartial investigation in the present case, whereupon the matter was investigated by the Superintendent of Police (Investigation), Patiala, who, after conducting a thorough and scientific investigation, submitted an Enquiry Report (Annexure P-3), declaring the petitioners innocent. However, still the concerned Senior Superintendent of Police transferred the investigation of the case from the Superintendent of Police (Investigation), Patiala to a Special Investigating Team, for the reasons best known to him. Subsequently, the report was submitted by the Special Investigating Team (Annexure P-4), wherein the petitioners were held guilty, even though no incriminating evidence came on record against them. It is stated that the findings of the Special Investigating Team are based upon the conjectures and surmises, primarily on the premise that the petitioners have prior FIRs registered against them. Learned counsel contends that the present FIR has been lodged against the petitioners by the complainant in connivance with one police official namely, Gurinder Singh, Deputy Superintendent of Police, against whom a criminal complaint (Annexure P-5) was filed by petitioner No.2, wherein the trial Court had summoned the said Deputy Superintendent of Police and another police officials to face trial and ever since, the aforesaid Deputy Superintendent of Police has been falsely implicating the present petitioners in one or the other false cases, however, all the FIRs registered against the petitioners, after institution of the aforesaid complaint (Annexure P-5), have either been quashed or cancellation reports have been filed by the investigating agency in the said FIRs. It is stated that the

complainant was aggrieved against the petitioners by the fact that they had made a complaint to the Sarpanch of the complainant's village regarding illegal digging of their land in order to stop the outflow of the canal water from their farms. Learned counsel contends that a bare perusal of the record would reveal that no suicide note was left by the deceased before committing suicide and the complainant became aware about the deceased committing suicide on 12.07.2022 through the Facebook post of deceased (Annexure P-2). Learned counsel further contends that Enquiry Report (Annexure P-3) submitted by the Superintendent of Police (Investigation), Patiala, clearly substantiates the factum of deceased not holding the petitioners or anyone else responsible for his death; and it also indicates that no physical quarrel of any kind took place between the petitioners and the complainant party on the date of alleged occurrence. Further, call records of the petitioners were also perused by the Superintendent of Police (Investigation), Patiala, from which it emerged that the petitioners had neither called the complainant or the deceased on the day of alleged occurrence. It is stated that the anticipatory bail applications moved by the petitioners before the Court of Additional Sessions Judge, Patiala, have wrongly been dismissed, vide common order dated 02.08.2022 (Annexure P-10). It is further stated that there is an inordinate delay in registration of the present FIR, which was also not considered by the Court below while deciding the bail applications. Learned counsel for the petitioners submits that the petitioners are ready and willing to join the investigation as and when required by the Investigating Agency or as directed by this Court/trial Court.

Notice of motion.

At the asking of Court, Mr. Subash Godara, Additional Advocate General, Punjab, who is present in Court, accepts notice on behalf of respondent No.1/State. Learned State counsel though opposes the plea of petitioners on the ground of seriousness of the offences, however, he prays for an accommodation to seek instructions and assist the Court in this matter.

At this stage, Mr. Gaurav Datta, Advocate appears and files Vakalatnama on behalf of respondent No.2 in Court today, which is taken on record, subject to all just exceptions. He opposes the prayer of petitioners for grant of anticipatory bail.

List on 03.05.2023.

Without commenting anything on the merits of the case, petitioners are directed to join the investigation as and when

directed by the investigating agency and in the event of arrest of petitioners, they shall be released on ad interim bail to the satisfaction of the Investigating/Arresting Officer and the petitioners shall abide by the terms and conditions laid down under Section 438(2) of the Code of Criminal Procedure. Learned counsel for the petitioners is directed to supply complete copies of paper book to learned State counsel as well as learned counsel for respondent No.2 during the course of the day.”

3. Learned counsel for the petitioners submits that pursuant to the aforesaid order, the petitioners have joined the investigation.

4. Learned State counsel on instructions from ASI Gurpreet Singh has not disputed the aforesaid fact of joining of investigation by the petitioners and submits that their custodial interrogation is not required at this stage.

5. Mr. Bipin Ghai, Senior Advocate has appeared on behalf of complainant and opposed the prayer for grant of anticipatory bail to petitioner, however, he has not disputed that fact that in the photo posted by Jasmeet Singh (since deceased) he is standing on the minor canal and there is no comment/writing thereon, so as to *prima facie* indicate attribution of instigation/abettment towards anyone.

6. Heard learned counsel for the parties.

7. Since the petitioners have joined the investigation and their custodial interrogation is not required at this stage, the present petition is allowed and the ad-interim order dated 03.03.2023 passed by this Court is made absolute.

8. However, the petitioners shall continue to join the investigation as and when required to do so and abide by all the conditions laid down under Section 438(2) Cr.P.C.

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9.

It is made clear that if the petitioners fail to comply with any of the bail conditions laid down under Section 438(2) Cr.P.C, the State would be at liberty to move an application for cancellation of this anticipatory bail granted to the petitioners.
10.

Nothing expressed here-in-above shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for anticipatory bail at this stage.
11.

The petition is accordingly disposed of.
12.

Pending application(s), if any, stands closed.

03.05.2023
Himani

(HARSH BUNGER)
JUDGE

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