

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CRM-M-19974-2022

Date of decision:- 20.07.2023

Shiv Aggarwal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. Arun Luthra, DAG, Punjab for State-respondent.

Mr. Nitin Sharma, Advocat for the complainant.

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SUVIR SEHGAL, J. (Oral)

1. On 12.05.2022, this Court passed the following order:-

“Prayer is for grant of anticipatory bail to the petitioner in case having FIR No.16 dated 2.4.2022 registered under Section 306 IPC at Police Station Tibber District Gurdaspur.

Counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. That at the most there was dispute regarding money transactions between the petitioner and deceased-Parbhbir Singh. The counsel further contends that as per allegations in the FIR the petitioner owed Rs.22 lakhs to the deceased and refused to return the same. The counsel for the petitioner further contends that prior to the present occurrence, no civil suit with regard to recovery of aforesaid amount or any complaint regarding threats being given by the petitioner to the deceased, was ever filed. The counsel further contends that the petitioner is ready to join investigation.

Notice of motion.

On the asking of the Court, Ms. Samina Dhir, DAG, accepts notice on behalf of State of Punjab and Mr. Nitin Sharma, Advocate has put in appearance on behalf of the complainant and filed power of attorney, which is taken on record.

The State counsel and the counsel for the complainant contend that petitioner refused to return amount of Rs.22 lakhs to the deceased and the petitioner was persistently harassing the deceased, who was demanding return of his money. The counsel further contends that the petitioner incited and abetted the deceased to commit suicide and resultantly the deceased committed suicide by hanging himself. That the deceased left behind suicide note wherein he clearly blamed the petitioner for his death. The counsel for the complainant further contends that even prior to the occurrence the petitioner visited the shop of the deceased and threatened him and this was captured in the CCTV camera. The State counsel further contends that custodial interrogation of the petitioner is required.

There may be some dispute between the petitioner and deceased relating to money transactions. As per the prosecution the petitioner owed Rs.22 lakhs to the deceased and the deceased was demanding back the aforesaid money and on this the petitioner was giving threats to the deceased and also refused to return the aforesaid money to him. Admittedly, no suit for recovery of the aforesaid amount was filed by the deceased against the petitioner during his life time by the deceased. Prior to the present occurrence, no complaint was ever lodged by the deceased or any other member of his family that the petitioner used to threatened them or that the petitioner refused to return the aforesaid amount to the deceased. As per the prosecution the petitioner left behind suicide note, in which, he clearly named the petitioner to be responsible for his death.

For prosecution of a person under Section 306 IPC, there has to be a clear mens-rea to commit the offence. It also requires an active act or direct act which led the deceased to commit suicide seeing no option and this act must have been intended to push the deceased into such a position that he committed suicide.

In the instant case the suicide note has already been recovered and its genuineness would be unfolded during the trial after the receipt of the report of FSL.

In view of the above, in case of arrest, the petitioner is directed to be released on interim bail by the Investigating Officer/Arresting Officer subject to his own satisfaction. The petitioner should join investigation with the police well in time before the next date of hearing and to abide by the conditions envisaged under Section 438 (2) Cr.P.C.

The report of the Investigating Officer be also called in this context on the next date of hearing.

Now be listed on 15.9.2022.”

2. Although, report has not been submitted pursuant to the above reproduced order, despite lapse of more than one year, but upon instructions received from ASI, Palwinder Singh, State counsel submits that petitioner has joined and cooperated with the investigation and is no longer required for custodial interrogation.
3. In view of the above, but without commenting upon the merits of the allegations, petition is allowed. Order dated 12.05.2022 is made absolute subject to satisfaction of conditions laid down under Section 438 (2) of the Code of Criminal Procedure.

20.07.2023
Kamal

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No