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

CRM-M-21447-2023

Date of decision : 29.04.2023

Sunil Kumar Chopra**.....Petitioner****versus****State of Haryana****..... Respondent****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. J.P. Jangu, Advocate
for the petitioner.

*********RAJESH BHARDWAJ, J.**

This is the second petition filed by the petitioner under Section 438 Cr.P.C. for grant of concession of anticipatory bail in FIR No.224 of 2022 dated 23.04.2022, under Section 304-B of the Indian Penal Code, registered at Police Station Civil Lines Sirsa, Haryana.

On the earlier occasion, petitioner approached this Court by way of filing petition CRM-M-27934-2022 wherein after arguing at length, petition was allowed to be dismissed as withdrawn vide order dated 04.07.2022.

As per the case of prosecution, FIR was registered on the statement of Rajesh Lumbar wherein he alleged that they were 05 siblings, out of which, 03 were sisters and all were married. His younger sister Neelam was married with Kapil Chopra on 12.02.2021. Soon after the marriage, his sister told him that her in-laws started harassing her for the demand of dowry. Number of times, his sister told him about the harassment

and cruelty being caused by her to Kapil Chopra, brother of Kapil Chopra namely, Sunil Chopra and Jyoti wife of Sunil Chopra. Having no other option, his sister lodged the FIR No.547 on 30.12.2021, under Sections 498-A, 328, 376(2)(f), 506, 313, 342, 379-A, 34 of IPC at Police Station Civil Lines Sirsa. His sister was living with her mama sasur Madan Sehgal and his wife used to put pressure on his sister to compromise the matter. His sister had come to her parental home and she was sleeping in her room. However, at about 01:30 PM when they tried to wake her up then the room was found bolted inside. They saw from the window and found his sister Neelam hanging from the fan. On opening of the door, they checked her and found her dead. A suicide note was also found wherein she had made allegations against Kapil Chopra, Sunil Chopra (petitioner), Jyoti Chopra and Madan Sehgal (maternal uncle) and his wife, Sandeep friend of Kapil and 04 sisters-in-law and their husbands. Request was made to take legal action against the culprit.

Petitioner who is brother-in-law (jeth) of the deceased approached learned Additional Sessions Judge, Fast Track Special Court praying for grant of anticipatory bail. However, after hearing counsel for the parties, learned Additional Sessions Judge, Fast Track Special Court declined the same vide order dated 07.06.2022. Aggrieved by the same, petitioner had earlier approached this Court by way of filing CRM-M-27934-2022 which was dismissed as withdrawn. Now the petitioner has again approached this Court praying for grant of anticipatory bail.

It has been contended by counsel for the petitioner that the petitioner had been falsely implicated in this case. He submits that the petitioner was not even residing with the deceased and he had no interference in the matrimonial life of the deceased. It is submitted that at the

time of the alleged occurrence, the deceased was living with her parents where she committed suicide and thus, false implication of the petitioner is writ large. He submits that the investigation is already complete and thus, the petitioner be granted anticipatory bail.

I have heard counsel for the petitioner and perused the record.

After hearing counsel for the petitioner and perusing the record, it is apparent that petitioner had approached this Court on the earlier occasion by way of filing the petition bearing CRM-M-27934-2022 which was withdrawn after addressing arguments at length. As per law, second and successive anticipatory bail petitions are not even maintainable. Even otherwise, as per the case of prosecution, the deceased had committed suicide after hardly a year after her marriage with the brother of petitioner. There are specific allegations made against the petitioner by the deceased regarding the mental and physical harassment being caused to her by the petitioner. FIR under Sections 498-A, 328, 376(2)(f), 506, 313, 342, 379-A, 34 of IPC at Police Station Civil Lines Sirsa was already registered by her. However, the harassment to the deceased went unabated and thus, she allegedly committed suicide on 23.04.2022. As per record, suicide note was also written by the deceased wherein specific allegations against the petitioner have been made. *Prima facie*, it appears that the deceased died an unnatural death within 07 years of her marriage on account of harassment caused to her for the demand of dowry.

In the facts and circumstances of the case, this Court finds that neither the petitioner has a case on the maintainability of the second petition nor he has case on merits.

For the consideration of anticipatory bail, the statutory parameters are given under Section 438(1) Cr.P.C. which reads as under:-

“Direction for grant of bail to person apprehending arrest:-

(1) Where any person has reason to believe that he may be arrested on accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section that in the event of such arrest he shall be released on bail; and that Court may, after taking into consideration, inter alia, the following factors, namely:-

- (i) the nature and gravity of the accusation;*
- (ii) the antecedents of the applicant including the fact as to whether he has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;*
- (iii) the possibility of the applicant to flee from justice; and*
- (iv) where the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested,*

Either reject the application forthwith or issue an interim order for the grant of anticipatory bail.”

As per the law settled by the Hon'ble Supreme Court, in Gurbaksh Singh Sibbia Vs. State of Punjab, AIR 1980 SC 1632, while granting anticipatory bail, the Court is to maintain a balance between the individual liberty and the interest of society. However, the interest of the society would also prevail upon the right of personal liberty. The relevant part of the judgment is as follows:-

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.

The Hon'ble Supreme Court in State Vs. Anil Sharma, (1997)

7SCC 187, 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 a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is 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 a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.

Hon'ble the Supreme Court in **G.R. Ananda Babu Vs. State of Tamil Nadu, 2021(1) RCR (Criminal) 843** has held that successive anticipatory bail applications ought not to be entertained on specious ground of 'Changed Circumstances'.

In view of the overall facts and circumstances of the case, the petitioner do not qualify for the grant of anticipatory bail and the same is hereby dismissed on both counts i.e. on maintainability being second application as well as on merits. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

29.04.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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