

S. No.202

2023:PHHC:121979

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-28290 of 2023

Date of Decision:15.09.2023

ChanderbhanPetitioner

Vs.

State of HaryanaRespondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Menka Gupta, Advocate for the petitioner.

Mr. Parveen Kumar Aggarwal, DAG, Haryana.

Mr. R.S. Mamli, Advocate for the complainant.

DEEPAK GUPTA, J. (Oral)

On 01.06.2023, following order was passed by this Court:-

“The instant petition under Section 438 Cr.P.C., has been filed for grant of anticipatory bail to the petitioner in FIR No.160, dated 21.05.2020, under Sections 306 and 34 of the IPC, 1860, registered at Police Station Bhuna, District Fatehabad, Haryana.

Learned counsel for the petitioner contends that in the instant FIR, during the course of investigation at the time of filing of challan, the petitioner was declared innocent along with his wife and son, but subsequently has been summoned by way of an application under Section 319 of Cr.P.C., vide order dated 05.04.2022. It has been further asserted that the deceased committed suicide in the house of his own sister at village Saniyana, District Fatehabad, which is situated at a distance of approximately 90 kilometers from the house of the petitioner and allegations on perusal of the FIR could easily be taken to be vague and without any specific instance of inducement, instigation or harassment immediately prior to the commissioning of said act on behalf of the deceased.

Notice of motion.

On the asking of Court, Mr. Gagandeep Singh Chhina, AAG, Haryana, accepts notice on behalf of respondent-State.

At this stage, Mr. B.S. Mamli, Advocate has put in appearance on behalf of complainant, who while referring to the contents of FIR stated that there are specific allegations against the present petitioner, but failed to refer any such

particular sentence, except a document Annexure P-2, which is purported to be a suicide note, which also seems to be vague, as no particular date or instance has been elaborated.

Learned State counsel also opposes the concession of anticipatory bail at this stage on the ground that there was a constant harassment and humiliation being caused by the petitioner to the deceased namely Bharat Singh, though, could not controvert the fact that the petitioner was declared innocent, during the investigation and was placed in column No.2 in the challan, who has now been summoned only in an application under Section 319 of Cr.P.C.

Looking into the totality of facts and examining the FIR (Annexure P-1) along with suicide note (Annexure P-2), as referred by counsel for complainant, this Court is duly convinced to infer that allegations as far as these two documents are concerned, at least for the purpose of granting bail at this stage, both are totally vague and bald having no specific instance therein narrated either by the deceased in the suicide note or by the complainant in the FIR to constitute an offence under Section 306 IPC with the basic ingredient of instigation immediate prior to the commissioning of said offence.

In the light of above discussions made hereinabove, the petitioner is directed to be released on interim bail in case he joins the investigation on furnishing personal surety/security bonds to the satisfaction of trial Court/Duty Magistrate. The petitioner will also come present as and when called for and cooperate in investigation and shall abide by the conditions as envisaged under Section 438 (2) Cr.P.C.

Adjourned to 15.09.2023.”

It is stated by learned State Counsel that in fact petitioner was found innocent during investigation and that it is only during trial that on an application under Section 319 Cr.P.C., the petitioner was summoned to face trial by the Court of Sessions.

However, learned counsel for the complainant has opposed the bail to the petitioner by pointing out towards the gravity of the offence.

Considering that custody of the petitioner is not required for any investigation, which already stands concluded and involvement of the petitioner in the crime is a matter of trial, therefore, the objection raised by counsel for the complainant is found to contain no merit. As such, order dated 01.06.2023 as reproduced above is hereby made absolute.

Disposed of.

September 15, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No