

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARHCRM-M-35597 of 2022(O&M)
Date of Decision: 17.04.2023

Sudesh Chander

...Petitioner

Versus

State of Punjab

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Bhupinder Ghai, Advocate
For the petitioner.

Mr. C.L. Pawar, Addl. AG Punjab.

Ms. Shazia K. Singh, Advocate
For the complainant.

KARAMJIT SINGH, J.

The present petition has been filed by the petitioner under Section 438 Cr.P.C. seeking anticipatory bail in case having FIR No. 86 dated 26.07.2022, registered under Section 306 IPC at Police Station Division No.3, District Police Commissionerate Jalandhar.

The allegations in nutshell are that deceased Pawan Kumar, father of the complainant was working as Lift Operator in Municipal Corporation, Jalandhar. Deceased had taken loan from the accused against certain cheques which were kept by the petitioner as security. That the deceased returned the said loan but the petitioner refused to return the security cheques and was persistently harassing the deceased by demanding money from him by way of interest on the principal amount and thus compelled the deceased to commit suicide. That before committing suicide, the deceased left behind suicide note in which he gave the mobile phone number of the petitioner.

The counsel for the petitioner, *inter alia*, contends that the petitioner is a retired employee of Indian Railways and is aged about 72 years and has nothing to do with the death of Pawan Kumar. The counsel for the petitioner further contends that prior to the registration of the present FIR no complaint was ever lodged by the deceased or complainant with regard to persistent unnecessary harassment of the deceased by the petitioner. The counsel for the petitioner further submits that the petitioner has joined the investigation with the police and alleged suicide notes are already recovered and now nothing remains to be recovered from the petitioner.

The present petition is contested by the counsel for the complainant who submits that deceased took loan from the petitioner but later on repaid the same, but the petitioner failed to return the security cheques against which the said loan was availed and taking advantage of the said fact petitioner was persistently harassing and giving threats to the deceased and the petitioner was demanding more money from him and in this manner compelled the deceased to commit suicide and in this manner deceased Pawan Kumar ended his life by committing suicide but before doing so he left behind suicide note wherein while giving reference of the petitioner, the deceased mentioned his mobile phone number in the suicide note. The counsel for the complainant further submits that the custodial interrogation of the petitioner is required for proper and effective investigation of the case.

The State counsel on instructions from ASI Satpal, submits that recovery of suicide notes is already effected and petitioner has joined the investigation and now the petitioner is not required for any further investigation or custodial interrogation by the police.

Apparently, nothing is available on record to show that during his lifetime Pawan Kumar ever lodged any complaint against the present petitioner with regard to his alleged persistent harassment by the petitioner from whom he is stated to have borrowed certain amount, which as per prosecution was already repaid by the deceased. There is no mention of any specific date/ month when the petitioner humiliated or threatened the deceased. Petitioner is stated to be a retired employee of Indian Railways and it is matter of evidence as to whether there was any intention on the part of the petitioner to compel the deceased to commit suicide. Further, the Hon'ble Apex Court in **Shabbir Hussain Vs. The State of Madhya Pradesh & Ors. 2022(1) RCR(Crl.) 610** held that mere harassment without any positive action on part of accused proximate to time of occurrence would not amount to offence under Section 306 IPC.

The petitioner has joined the investigation with the police and now nothing remains to be recovered from him. So, no purpose will be served even if the petitioner is subjected to custodial interrogation at this point of time. Thus, without commenting on the merits of the case present petition is allowed and order of interim bail dated 10.08.2022 is hereby made absolute, subject to the conditions as envisaged under Section 438(2) Cr.P.C.

17.04.2023
Jiten

(KARAMJIT SINGH)
JUDGE

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