

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**102****CRM-M No.42835 of 2023 (O&M)****Reserved on : 07.12.2023****Date of Decision : 15.12.2023**

Subhash Chander

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amit Chaudhary, Advocate for the petitioner.

Ms. Mahima Yashpal, DAG Haryana.

ALKA SARIN, J.

1. The present petition has been filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.173 dated 04.07.2023 under Section 306 of the Indian Penal Code, 1860 registered at Police Station Ratia, District Fatehabad.

2. The FIR was registered on the complaint of one Satpal on 04.07.2023 wherein he stated that his sister, namely, Surjeeto, who was married to the present petitioner about 23 years ago, had two sons, namely, Umed Kumar aged 22 years and Ramandeep aged 17 years. On 03.07.2023 Raghubir Singh son of Chhabil Dass informed them that his sister Surjeeto and his younger nephew Ramandeep had consumed some poisonous substance at about 09.00 am and were shifted to Fatehabad for treatment. After making inquiries they reached Umeed Hospital, Fatehabad where they came to know that his sister Surjeeto and nephew Ramandeep had expired.

Later they learnt that his brother-in-law, namely, Subhash Chander (petitioner herein) was having illicit relations with Seeto Devi wife of Kalu Ram and that his sister Surjeeto had earlier informed them about this matter upon which they went to village Nagpur twice or thrice and tried to make the petitioner understand. However, the father and younger brother of the petitioner had told them that he did not even listen to them. It is further the allegation that the petitioner used to maltreat and harass the nephew Ramandeep also. It was further alleged that on account of the illicit relationship of the petitioner, his sister Surjeeto and nephew Ramandeep had committed suicide by consuming some poisonous substance for which the petitioner was responsible.

3. Learned counsel for the petitioner would contend that the offence under Section 306 IPC is not made out *qua* the petitioner. Learned counsel for the petitioner would further contend that abetment involves a mental process of instigating a person or intentionally aiding a person to do such a thing and in the absence of any positive act on the part of the accused to instigate or aid in committing suicide, conviction is not sustainable. In support of his arguments he has relied upon the following judgments :

1. Mariano Anto Bruno and Another vs. The Inspector of Police, [2022 AIR (SC) 4994];
2. Geo Varghese vs. State of Rajasthan and Another, [2021(4) RCR (Criminal) 361];
3. S.S. Chheena vs. Vijay Kumar Mahajan and Another, [2010(4) RCR (Criminal) 66];
4. Sanju @ Sanjay Singh Sengar vs. State of Madhya Pradesh, [2002(2) RCR (Criminal) 687];
5. Gurmit Singh vs. State of Punjab, [2014(13) RCR (Criminal) 139];

6. Bara Singh vs. Gurmit Kaur, [1998(3) RCR (Criminal) 143];
 7. State of Punjab vs. Kamaljit Kaur alias Bholi and Another; [2008(2) RCR (Criminal) 562]
 8. Primaljeet Kaur and Another vs. State of Punjab, [CRM-M-48175-2021] decided on 21.01.2022
 9. Renu and Others vs. State of Haryana, [CRM-M-20351-2021] decided on 10.12.2021.
 10. Saroj vs. State of Haryana, [2011(22) RCR (Criminal) 887]
 11. State vs. Naved UR Rehman, [2016(3) Cri. CC 366]
 12. Nirmaljeet Singh and Others vs. State of Punjab and Another, [CRM-M-50641-2021] decided on 10.04.2023
 13. Mukesh Kher vs. State of Haryana and Another, [2020 (4) RCR (Criminal) 162]
4. Status report by way of affidavit of Sh. Virender Singh, HPS, Deputy Superintendent of Police, Ratia, Fatehabad has been filed on behalf of the respondent-State. In the status report it has been stated that during investigation the call details of the petitioner were obtained for analysis purposes and it transpires that the petitioner had conversations with Seeto Devi approximately 668 times and further that the petitioner used to talk to Seeto Devi 5-6 times in a day on regular basis for the past 06 months and that on the day of incident he had a conversation with Seeto Devi at 03.00 am for approximately one hour. Along with the status report, the postmortem reports of the deceased Surjeeto and Ramandeep have also been appended.
5. Learned State counsel would contend that the investigation is still under process and that two people had lost their lives and that custodial interrogation of the petitioner would be necessary for conducting further investigation.

6. I have heard learned counsel for the parties.

7. In the present case the wife of the petitioner and younger son Ramandeep are alleged to have committed suicide by consuming some poisonous substance. During investigation it has come to fore that the petitioner was in an illicit relationship with one Seeto Devi and even on the day of the incident he was in conversation with her for over an hour at about 03.00 am. The postmortem report of Ramandeep appended with the status report also reveals that there is a fracture along the shaft, anteriorly of rib No.3 on the right side. *Prima facie* there is no explanation forthcoming for the injuries having been received by Ramandeep on his rib. There can be no quarrel with the proposition of law as laid down in the judgments relied upon by learned counsel for the petitioner, however, herein two people had committed suicide and Ramandeep, as per his postmortem report, had a fractured rib. The investigation is still at a preliminary stage.

8. Keeping in view the seriousness of the allegations made in the FIR coupled with the fact that the son of the petitioner, namely, Ramandeep, who is also one of the deceased, had a fractured rib, I do not find it to be a fit case for grant of anticipatory bail to the petitioner. The present petition is dismissed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

15.12.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO