

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
103 CRM-M-43959-2023 (O&M)
Date of decision: 04.09.2023

Vivek Kumar
Vs.
State of UT Chandigarh
...Petitioner(s)
...Respondent(s)

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Man Mohan, Advocate
for the petitioner.

NIDHI GUPTA, J.

Prayer in this first petition under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in case FIR No.54 dated 12.05.2023 under Section 306 IPC registered at Police Station Industrial Area, Chandigarh.

2. Learned counsel for the petitioner inter alia submits that the petitioner is innocent and has been falsely implicated in the present matter. It is submitted that the FIR in the present case is registered on the basis of statement of father of the victim. Learned counsel states that the petitioner was engaged with the deceased and their marriage was to take place in due course. The petitioner visited Chandigarh for the first time on 03.01.2023 to appear in CTET exam and remained here till 21.01.2023. On request of family of deceased, he visited their house in Chandigarh and found the behaviour of deceased suspicious. He checked her mobile phone and found that she was in relationship with one Suraj. The petitioner tried to make her understand that she should avoid these activities as they were

now engaged. On 21.01.2023, the petitioner returned to his native place in Bihar. Thereafter, he never came to Chandigarh though he had been having normal telephonic and WhatsApp conversations with the deceased. Learned counsel contends that accordingly, the implication of the petitioner in the FIR is patently baseless as petitioner had nothing to do with the unfortunate incident.

3. Notice of motion.

4. Mr. A.M. Punchhi, PP for UT Chandigarh accepts notice on behalf of the respondent-UT Chandigarh.

5. Learned counsel for the respondent-UT vehemently opposes the prayer for grant of anticipatory bail to the petitioner and submits that very serious allegations have been made against the petitioner in the FIR. Learned counsel refers to the findings recorded by the learned trial Court in para 3-4 of the impugned order dated 10.08.2023, wherein while rejecting the petitioner's prayer for anticipatory bail, the learned trial Court has recorded that while on a video call with the victim/deceased on the date of incident/16.02.2023, the petitioner was found provoking and abetting the deceased to commit suicide by putting a noose around her neck. Learned counsel submits that these conversations/videos form part of the Pen Drive recovered, and the videos already stand analysed by the CFSL. It is submitted that accordingly, in these facts, the petitioner cannot be held entitled to bail.

6. I have heard learned counsel for the parties.

7. Following findings of the learned Additional Sessions Judge, Chandigarh in order dated 10.08.2023 whereby application of the petitioner seeking anticipatory bail has been rejected, are very relevant and are reproduced hereinbelow:-

“4. Complainant Brij Lal Saha is father of deceased Pooja Kumari. He moved complaint with the police on 27.02.2023 inter alia stating that he lives with his family having four children. Out of them one was daughter Pooja Kumari (deceased). Her engagement with applicant Vivek Kumar took place. On 07.01.2023 applicant came to Chandigarh to appear in CTET 2022 Exam. He wrote that exam on 10.01.2023 and thereafter started residing in a rented room of House No. 983 in Gas Colony, Dariya (Chandigarh). He started harassing Pooja. He would use foul language with her and would compel her to establish physical relations with him. Pooja refused. In the absence of her family members also this applicant would come at her house and would impose himself upon her forcibly. Pooja would refuse and he would threaten to snap the betrothal. On 21.01.2023 applicant returned to his house in Bihar from where he would daily harass Pooja by giving phone calls on her mobiles detailed in the FIR. On 16.02.2023 complainant and his wife left the house for their jobs. Their children went to school. Afterwards applicant and Pooja had conversation. Applicant abetted her to commit suicide. At that time she was alone in the house and was on Video call with applicant. Applicant asked her to show him as to how a noose is put. Pooja put a noose around her neck. At about 11:00 a.m. complainant received phone call from Vidya Sagar, the father of applicant, informing that Pooja had committed suicide. Complainant rushed home and found that his wife with the help of a neighbourer had brought down Pooja Kumari from

the fan. She was taken to hospital but was declared brought dead. Complainant also handed over the recording of above said conversation to the police. FIR on such facts was recorded against the applicant. Apprehending his arrest he had moved this application for anticipatory bail. Police file presented by present Investigating Officer is perused and returned. It shows that notice under Section 41-A Cr.P.C. dated 07.04.2023 for joining of police proceedings also was given to this applicant by the Investigating Agency. Same was served through his father but applicant had not joined the proceedings. It also shows the proceedings with regard to taking in possession a PEN Drive said to have been containing the conversation between deceased and applicant on the day of occurrence. Learned counsel for applicant does not dispute that there have been conversations between them though adding that deceased had committed suicide due to her affair with one Suraj. These aspects require thorough investigation. Allegations are serious. Keeping in view the circumstances, I do not find if applicant should be admitted to anticipatory bail. This application is dismissed. File be consigned to the record room."

8. Learned counsel for the petitioner is unable to dispute the above said findings of the learned Court below.

9. In view of above, present petition stands **dismissed**.

10. However, it is made clear that nothing stated above shall be construed as an expression of opinion on the merits of the case.

11. Pending application(s) if any also stand(s) disposed of.

04.09.2023

Sunena

(Nidhi Gupta)

Judge

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No