

CRM-M-51695-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51695-2021

Date of decision : 20.03.2023

MANJIT SINGH

... Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Krishan Kumar Thakur, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

Mr. Vishnu Dutt, Advocate
for the complainant.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 438 Cr.P.C. is for the grant of anticipatory bail to the petitioner in case FIR No.421 dated 15.07.2021 registered under Sections 306, 34 IPC, 1860 at Police Station Rai, Sonapat.

2. The brief facts of the case are that the FIR in question came to be registered at the instance of Kapil son of Subhash Chand who stated that on 15.07.2021, he was on duty when he received information that his elder brother Anil had committed suicide by hanging himself on the intervening night 14/15.07.2021. His brother had been under mental stress for many days. He (complainant) along with the family members had released the body from the tree and cremated it. At that time, they had no suspicion regarding any foul play in the suicide of his brother.

However, after the cremation when he returned home and he along with his family members checked the mobile phone of his brother deceased-Anil, it was revealed that Anil had stated in a video/audio recording that Manjit Bindroli (petitioner) and his friend were harassing him. He (complainant), therefore suspected that his brother Anil had committed suicide on account of the harassment at the hands of Manjit Singh (petitioner) and his friend.

Based on the said complaint, the instant FIR came to be registered.

During investigation, the mobile phone of the deceased was taken into possession. One Chunni, one pen and one note-book containing a suicide note (Annexure R-1) left by the deceased was recovered and taken into possession. In the said suicide note, the deceased had mentioned that Manjit Singh (petitioner) along with his female friend had duped him and had forced him to commit suicide. Therefore, Manjit Singh and his female friend were responsible for his death. The FSL team visited the cremation ground and collected the residue and bones of the deceased. On 19.07.2021, one Neeraj Rana, a relative of the deceased Anil produced a pen drive containing the audio and video recorded by the deceased before his death. The same was taken into possession as it was accompanied by a Certificate under Section 65B of the Evidence Act. The mobile phone of the deceased was sent to the Forensic Science Laboratory for ascertaining the authenticity of audio and video found in the said mobile phone and the report in that

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regard is still awaited. Similarly, the suicide note of the deceased has been sent for comparison along with the sample note-book to the FSL Madhuban and the report is still awaited.

As per the call detail record/tower location, the petitioner-Manjit Singh was in constant touch with the deceased-Anil on 14.07.2021 i.e. the date of the occurrence. The tower locations of the mobile phones of the deceased and the petitioner also suggest that they were together during the day time.

3. Initially, the petitioner had sought the concession of anticipatory bail before the Court of Additional Sessions Judge, Sonipat. He was granted the concession of interim bail and was directed to join investigation. He joined investigation but gave evasive replies to the queries put to him. Despite being given numerous opportunities to join investigation and answer the specific queries of the Investigating Agency, he did not cooperate with the Investigating Agency. He also flatly refused to get recovered his mobile phone with which, he used to talk with the deceased. On this account, his anticipatory bail was dismissed by the Court of Additional Sessions Judge, Sonipat vide order dated 30.10.2021 (Annexure P-2).

4. He thereafter filed the instant petition and on 28.02.2022, the following order was passed:-

“The matter has been taken up through video conferencing.

Status report filed on behalf of the State, in Court today, is ordered to be taken on record.

For arguments, adjourned to 22.8.2022.

Seeking ad interim anticipatory bail, learned counsel for the petitioner inter alia submits that the petitioner has been falsely implicated in the case; there is no other criminal case that the petitioner faces; the allegations against the petitioner are only based on audio/ video clippings allegedly contained in the deceased's mobile phone; even if the afore evidence is accepted as the gospel truth, though vehemently denied, the only utterances by the deceased are that he is committing suicide due to pressures by the petitioner and his female friend; the afore bald allegations would not constitute abetment under Section 107 IPC; under the interim orders passed by the Trial Court, the petitioner has joined and cooperated with the investigating agency and that even now the petitioner is ready and willing to join the investigation as and when called by the investigating agency.

Learned State counsel opposes the grant of ad interim bail to the petitioner on the ground that he has abetted Anil's suicide.

After considering the rival submissions made by the learned counsel for the petitioner and learned State counsel, it is directed that till the adjourned date, subject to the petitioner's joining investigation as and when called by the investigating agency as also abiding by the other conditions provided under Section 438(2) Cr.P.C, in the event of his arrest in FIR No.421 dated 15.7.2021 registered under Sections 306, 34 IPC at Police Station Rai, District Sonapat he shall be released on ad interim anticipatory bail to the satisfaction of the Arresting Officer.

Before the adjourned date, the State shall file a fresh status report.”

5. In compliance of the aforementioned, the petitioner joined investigation on 12.03.2022 and 05.07.2022 but showed total non-cooperation with the Investigating Agency and gave evasive replies. He also did not get recovered his mobile phone used in contacting the deceased. Further, he did not disclose the particulars of his female friend referred to in the FIR. In addition, he has also refused to get recovered the motorcycle used by him for taking the deceased to Alipur, Delhi from his house. Neither has he disclosed the circumstances which constrained the deceased to end his life or furnish an explanation as to why the deceased had named him (petitioner) and his female friend as persons responsible for his death.

6. The learned counsel for the petitioner contends that the allegations levelled against the petitioner are absolutely baseless. There is no medical examination of the dead body that has been conducted. The petitioner has cooperated with the investigation. The mobile phone sought by the Investigating Agency has been lost. However, taking the prosecution version to be correct, no offence under Section 306 IPC made out. Therefore, the petitioner was entitled to the grant of anticipatory bail once he had joined investigation.

7. On the other hand, the learned State counsel has referred to the replies dated 22.12.2021 and 22.08.2022 to contend that the petitioner did not cooperate with the Investigating Agency firstly, when he was granted the concession of anticipatory bail by the Court of

Additional Session Judge, Sonipat and thereafter, when he was granted the similar concession by this Court. He has given evasive replies to the queries put to him. He has stated that he had taken the deceased to Delhi and had left him there with three females at Alipur Road, Delhi. He has not got his mobile phone recovered with which used to talk with the deceased nor has he disclosed the name of his female friend who is stated to be a co-accused along with him. Since he is specifically named in the FIR, in the suicide note as also in the audio recording and video recording left by the deceased before his death and has not cooperated with the Investigating Agency by getting recovered his mobile phone and the motorcycle used by him to take the deceased to Delhi and has also not disclosed the name of his female friend who is also a co-accused, he was not entitled to the concession of anticipatory bail.

8. The learned counsel for the complainant has argued that in view of the nature of the allegations against the petitioner as also his conduct during the course of proceedings, firstly before the Additions Sessions Judge, Sonipat and thereafter before this Court, the petitioner was not entitled to the grant of anticipatory bail as it was a clear case of attempted extortion, blackmail and abetment.

9. I have heard the learned counsel for the parties.

10. A perusal of the FIR would clearly reveal that specific allegations have been levelled against the petitioner and his female friend. Thereafter, the suicide note has also referred to the role played by the petitioner and his female friend. The audio and video recordings

from the mobile phone of the deceased also referred to the role played by the petitioner and his female friend. Despite numerous opportunities to cooperate with the investigation, the petitioner has deliberately chosen to give evasive answers, has not got his mobile phone recovered or the motorcycle used by him in taking the deceased to Delhi. He has also not disclosed the name of his female friend. Therefore, the conduct of the petitioner in not cooperating with the Investigating Agency does not entitle him to the grant of anticipatory bail.

11. Even otherwise, the Hon'ble Supreme Court in the case of ***Sumitha Pradeep Vs. Arun Kumar C.K. & Anr. 2022 Live Law (SC) 870*** held that merely because custodial interrogation was not required by itself could not be a ground to grant anticipatory bail. The first and the foremost thing the Court hearing the anticipatory bail application is to consider is the prima facie case against the accused. The relevant extract of the judgment is reproduced hereinbelow:-

“It may be true, as pointed out by learned counsel appearing for Respondent No.1, that charge-sheet has already been filed. It will be unfair to presume on our part that the Investigating Officer does not require Respondent No.1 for custodial interrogation for the purpose of further investigation.

Be that as it may, even assuming it a case where Respondent No.1 is not required for custodial interrogation, we are satisfied that the High Court ought not to have granted discretionary relief of anticipatory bail.

We are dealing with a matter wherein the original complainant (appellant herein) has come before this Court praying that the anticipatory bail granted by the

High Court to the accused should be cancelled. To put it in other words, the complainant says that the High Court wrongly exercised its discretion while granting anticipatory bail to the accused in a very serious crime like POCSO and, therefore, the order passed by the High Court granting anticipatory bail to the accused should be quashed and set aside. In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline custodial interrogation. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.

12. In view of the aforementioned discussion, not only is the petitioner not entitled to the grant of anticipatory bail in view of the serious nature of the allegations levelled against him but he is also not

entitled to the grant of anticipatory bail on account of his non-cooperative attitude despite being on interim bail for more than one and half years. Therefore, I find no merit in the present petition and the same is hereby dismissed.

13. However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the Trial Court is free to adjudicate upon the matter in accordance with law.

(JASJIT SINGH BEDI)
JUDGE

20.03.2023
JITESH