

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-56163-2022
Date of decision : 30.01.2023

Manpreet SinghPetitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Abhey Joshi, Advocate
for the petitioner.

Mr. Jaspal Singh Guru, Asstt. A.G., Punjab
for the respondent-State.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.107 dated 07.11.2022 registered under Sections 306 and 34 of the Indian Penal Code, 1860 at Police Station Bassi Pathana, District Fatehgarh Sahib.

The above-said FIR was registered on the complainant made by complainant-Gursharan Singh alleging that his brother deceased-Kamaljit Singh had been harassed by accused-Jaswinder Kaur and Manpreet Singh @ Happy (the petitioner) and on 03.11.2022 his brother-Kamaljit Singh had committed suicide.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. In the FIR no specific allegations against the petitioner and no reason has been given as to how and why the petitioner was distressing the deceased. Kamaljit Singh (deceased) was missing from 03.11.2022 but no report of missing

person has been reported by the complainant to the police. There is undue and unexplained delay of 04 days in lodging of the FIR. Nothing is to be recovered from the petitioner and his custodial interrogation is not required in the case. The petitioner is also ready and willing to join investigation. Therefore, the petitioner may be granted anticipatory bail.

On the other hand, learned State counsel has vehemently opposed the present petition and submits that Kamaljit Singh committed suicide as he was harassed by co-accused Jaswinder Kaur and the petitioner. The deceased disclosed about the harassment at the hands of petitioner to his brother and also to his cousin-Gurjeet Kaur. For thorough investigation of the case custodial interrogation of the petitioner is required. Therefore, the present petition may be dismissed.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As per the prosecution version, the complainant averred that the deceased-Kamaljit Singh had informed him about being harassed by Jaswinder Kaur and Manpreet Singh @ Happy (the petitioner) because of which he feels distressed and is going to end his life. On 03.11.2022 also his brother informed him that he is feeling very distressed from Jaswinder Kaur and the petitioner and after stating so he left the home at about 07:00 p.m. At about 07:35 p.m. Kamaljit Singh made call to his maternal sister namely Gurjeet Kaur and told her that he feels distress from Jaswinder Kaur and the petitioner and they will be responsible for his death and he is going to jump in the river. During the course of investigation, the material evidence i.e. mobile phone number of the deceased-Kamaljit Singh and mobile phone number of his maternal

sister Gurjeet Kaur are taken as evidence. The process for obtaining the approval for sending both the mobile phones has been initiated and the same will be send to the FSL (Cyber Cell), SAS Nagar for checking the conversation and submitting the report. The complainant also produced a pen drive, which contains the details of the recording of the mobile phones of the conversation between the deceased and Gurjeet Kaur.

Furthermore, investigation is still going on in the present case. For thorough investigation of the case, the custodial interrogation of the petitioner is necessary. It is settled proposition of law that power exercisable under Section 438 of the Cr.P.C. is somewhat extraordinary in character and it is to be exercised in exceptional cases. The Hon'ble Supreme Court in ***State Vs. Anil Sharma : (1997) 7 SCC 187*** held as under:-

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of a suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third-degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible police officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring offences would not conduct themselves as offenders.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve

the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

30.01.2023	(ASHOK KUMAR VERMA)
<i>kothiyal</i>	JUDGE
Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No