

212

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-61174-2022
DECIDED ON: 20th JANUARY, 2023

PAWAN KUMAR

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ashok Kumar Khungar, Advocate
for the petitioner.

Mr. Rajeev Verma, DAG, Punjab.

Mr. K.S. Brar, Advocate
for the complainant.

SANDEEP MOUDGIL, J

The jurisdiction of this Court under Section 438 of the Indian Penal Code, 1860 (for short 'IPC') seeking anticipatory bail to the petitioner in FIR No. 91, dated 08.12.2022, under Sections 306 IPC (Section 3 (2) V of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was deleted subsequently vide DDR no. 36, dated 27.12.2022), registered at Police Station Sadar Abohar, District Fazilka.

Learned counsel for the petitioner has argued that in the absence of any direct evidence against the petitioner for the alleged commissioning of offence under Section 306 IPC is not made out. The assertion is that offence under Section 3 (2) V of the Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act 1989 was deleted by the prosecution vide DDR no. 36, dated 27.12.2012, meaning thereby, the petitioner has been falsely implicated in the present case. It is alleged that in fact the petitioner intervened and rescued the other students from the deceased. Nothing is to be recovered from the petitioner.

Learned State counsel assisted by the counsel for the complainant has vehemently argued that there is specific allegation against the petitioner that he gave a slap to Faqir Chand while he was in school and insulted him in the presence of other students. It is asserted that due to the insult caused by the petitioner, he committed suicide by hanging himself with the garder of the roof. Accordingly, they pray for dismissal of the present petition.

Having heard learned counsel for the parties and the contents of the FIR, wherein allegations qua the petitioner have been made under Section 306 IPC, it would be just and in the fittest of facts involved in the case in hand to have a glance at the provision, which reads as under:-

*“**306. Abetment of suicide.**—If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.”*

At this stage, while considering the instant petition for anticipatory bail, the contents of the FIR need to be tested as to whether it falls within the fore-corners of essential ingredients to prima facie make out a case under Section 306 IPC.

To constitute alleged abetment of suicide under Section 306 of the IPC, there must be an allegation of either direct or indirect act of incitement to

the commission of the offence of suicide. The abetment has been defined as envisaged under Section 107 IPC, which reads as under:-

“107. Abetment of a thing.—A person abets the doing of a thing, who—

(i) Instigates any person to do that thing; or

(ii) Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

(iii) Intentionally aids, by any act or illegal omission, the doing of that thing.”

As far as the contention of the counsel for the petitioner with regard to the fact that he has been falsely charged with the aggravated offence under Section 3(2) V of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities Act, 1989), the offence was deleted after conducting investigation by the prosecution alleging that the victim and accused belong to the same caste. So far as the offence under Section 306 IPC is concerned, there is a video recording of the incident of assault of the deceased wherein, the petitioner has been shown giving slap to the deceased and immediately thereafter, he committed the suicide. The close proximity of the assault on the deceased and the suicide that he committed on his own, *prima facie*, makes the petitioner guilty of aiding and abetting suicide, which resulted in the death of a young 15 year old boy.

Considering the aforesaid fact and the circumstances, it is abundantly clear to the mind of this Court that the element of abetment is there to *prima facie* constitute an offence under Section 306 IPC against the

petitioner. The allegations are serious in nature and wherein the investigation is at the initial stage, therefore, it would be unjust to allow the anticipatory bail to the petitioner.

Accordingly, the present petition stands dismissed being devoid of any merits.

However, it is further made clear that the observations made hereinabove shall have no bearing on the merits of the present case.

20.01.2023
sham

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>