

294 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-4521-2024
Date of decision: 5th April, 2024

Navpreet Sharma

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. N.S. Mahal, Advocate for the petitioner.
Mr. A.S. Samra, AAG, Punjab.
Mr. Onkar Rai, Advocate for the complainant.

MANISHA BATRA, J (ORAL):-

The petitioner before this Court is seeking grant of pre-arrest bail pertaining to case arising out of FIR No. 287 registered at Police Station Phillaur, District Jalandhar on 31.10.2023, on the basis of statement recorded by the complainant Sunita alleging therein that the victim Tanya who was her seventeen years old daughter was in love with the petitioner. She had come into contact with him through social media networking site. She wanted to marry the petitioner but since she was a minor and her marriage could not be solemnized with the petitioner, therefore, the families of the petitioner and the complainant had decided in the presence of panchayat members that they would not contact each other till the victim attained the age of majority and thereafter their marriage would be solemnized. A written undertaking was also executed in this regard. She further stated that despite

this, the victim used to call the petitioner whose name is mentioned as

Arshdeep in the FIR and also used to convey to him that she wanted to marry him. The complainant further alleged that some days back, the petitioner had told the victim that he did not want to marry her anymore due to which the victim started living in depression and had consumed some poisonous substance on 29.10.2023 at about 12:00 PM. When the complainant noticed her deteriorated condition, she had asked her about the reason and then she came to know about these facts. She also alleged that she had called the petitioner and sent messages to him to meet the victim but he did not bother to come and alleged that the suicide of the daughter was abetted by the petitioner. The petitioner approached the Court of learned Additional Sessions Judge, Jalandhar by filing application seeking anticipatory bail which was dismissed vide order dated 12.12.2023.

2. Learned counsel for the petitioner has vehemently argued that allegation that the petitioner had refused to perform marriage with the victim are not such on the basis of which it could be stated that there was any nexus or proximity to the incidence of commission of suicide by the victim as required under Section 306 of IPC and hence, it is urged by him that the petitioner be extended benefit of pre-arrest bail failing which he would be arrested and would be put to grave hardship. It is also submitted that his custodial interrogation is not required.

3. Status report has been filed by the respondent-State. Learned State counsel has argued that there are specific allegations against the petitioner and therefore, the petition does not deserve to be allowed.

4. I have given my anxious consideration to the submissions made

by respective learned counsel and have perused the record carefully.

5. The commission of suicide by the victim by consumption of some poisonous substance is not in dispute. It is also not in dispute that the petitioner and victim were in contact with each other and had been talking with each other. The factum that a compromise was written between the family members of the victim and the petitioner that they would not remain in contact with each other had also been executed on 27.10.2023. Annexure P-2 is copy of the same. It is submitted that the victim did not leave any suicide note. The story of the prosecution was highly improbable and unnatural. The ingredients for commission of offence punishable under Section 306 of IPC were not at all made out as against the petitioner as there is no foundation laid in the complaint by narration that the petitioner was either present or had instigated the victim to commit suicide to an extent that there was no other option left to the victim. It is appropriate to notice that the well settled proposition of law is that the essential ingredients of the offence under Section 306 of IPC are; (i) the abetment; and (ii) the intention of the accused to aid or instigate or abet the victim to commit suicide. The act of accused, however insulting for victim will not, by itself constitute the abetment of suicide. There should be evidence capable of suggesting that the accused intended by his act to instigate the deceased to commit suicide. Reference in this regard may be made to '*M. Arjunan Vs. The State (2019) 3 SCC 315*', wherein the Hon'ble Supreme Court had made similar observations. Reference can also be made to '*Ude Singh and others vs. State of Haryana (2019) 17 SCC 301*', wherein it was observed by Hon'ble

Supreme Court that for the purpose of finding out if a person has abetted the commission of suicide by the another, the consideration would be if the accused is guilty of the act of the instigation of the act of suicide. Instigation means to goad, urge forward, provoke, incite or encourage to do an act. If the person who committed suicide had been hyper sensitive and the action of the accused is otherwise not ordinarily expected to induce a similarly circumstanced person to commit suicide, it may not be safe to hold the accused guilty of abetment of suicide but, on the other hand, if the accused by his acts and by his continuous course of conduct creates a situation which leads the deceased perceiving no other option except to commit suicide, the case may fall within the four corners of Section 306 of IPC.

6. It is clear from the propositions so laid down and as discussed above that if the an accused by his acts and continuous course of conduct is shown to have created any such situation which lead the victim perceiving no other option except to commit suicide, the case may fall within the provisions of Section 306 of IPC. However, on the facts narrated hereinabove, it is observed that admittedly, the victim was in love with the petitioner and he had allegedly refused to perform marriage with her some days prior to the incident. The incident of refusal having taken place some days before the commission of act of suicide by the victim does not lead to any *prima facie* conclusion that there was any proximity as is required in law to drive home abetment of suicide under Section 306 of IPC by the petitioner. The petitioner has admittedly no criminal antecedents. Petitioner has already joined the investigation in compliance of order dated

13.01.2024. The nature of the allegations do not require his custodial interrogation. At this stage, *prima facie* there is no nexus of proximity to the incident of commission of suicide under Section 306 of IPC and as such, despite the fact that the offence alleged is punishable for imprisonment upto ten years, the narration in the complaint of the incident would not mean that the petitioner is not entitled to grant of pre-arrest bail *albeit* imposing stringent conditions.

6. For the aforesaid reasons, I allow the petition. The petitioner is ordered to be released on bail in the event of his arrest, on the following conditions:-

- (i) He shall furnish requisite personal/surety bonds to the satisfaction of the Arresting officer/investigating officer by appearing before him within a period of ten days;
- (ii) He shall regularly appear before the Court on every date of hearing and also and when called upon to do so during the course of trial;
- (iii) He shall not tamper with the evidence or cause any threat or to any of the prosecution witnesses in any manner.
- (iv) He shall appear before the Investigating Officer as and when called and submit all documents and details as may be called upon by the investigating officer.
- (v) He shall not leave the country without prior permission of the trial Court.
- (vi) In the event of violation of any of the abovesaid terms,

his bail shall stand automatically cancelled.

7. It is further clarified that the observations made above are only for the purpose of consideration of application for pre-arrest bail and the same shall not in any manner influence the trial. The trial Court shall consider the case on its merits and without being influenced by this order.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

[MANISHA BATRA]
JUDGE

5th April, 2024
Parveen Sharma

1. Whether speaking/ reasoned : Yes
2. Whether reportable : Yes