

225 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-7074-2024
Date of decision: 2nd April, 2024

Santosh Kumari

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Mr. A.S. Samra, AAG, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 439 of Cr.P.C.

seeking regular bail in FIR mentioned below:-

FIR No.	Date	Police Station	Sections
132	03.04.2023	VPO Patti Fallian Di, Khadur Sahib, Goindwal Sahib, Tehsil Khadur Sahib, District Tarn Taran	306 read with Section 34 of Indian Penal Code, 1860 (for short ‘IPC’) and later on added Section 201 of IPC

2. Brief facts of the case relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by complainant Ajay Kumar alleging therein that the victim Suman who was married with the accused Vijay Pal Singh had committed suicide on 31.03.2023 and on receipt of information regarding her death, he had reached at the hospital where accused Vijay Pal Singh had stated that his sister had committed suicide as she was mentally disturbed

because of the fact that their daughter who was aged about four years was unable to move. The complainant further alleged that believing the words of his brother-in-law, he had recorded his statement before the police that he did not want to take any action but subsequently, he came to know that infact the accused Vijay Pal Singh was having illicit relations with the present petitioner and the suicide of his sister was abetted by him as he used to quarrel with his sister so as to make her leave her nuptial home. After registration of FIR, investigation proceedings were initiated. The petitioner and the co-accused Vijay Pal Singh were arrested on 06.04.2023. After completion of the necessary investigation and usual formalities, challan was presented before the trial Court. Petitioner and co-accused are facing trial for commission of offence punishable under Section 306 of IPC.

3. The present petition has been filed by the petitioner on the grounds and it has been argued by her counsel that she has been falsely implicated in this case. The allegations in the FIR even if considered to be true on their face value do not make out any case for commission of offence punishable under Sections 306 of IPC against her. Trial is likely to take time. The provisions of Section 107 IPC are also not attracted. The co-accused has since been extended benefit of regular bail and on the ground of parity, she also deserves to be released on bail. Therefore, it is urged that the petition be allowed.

4. *Per contra*, learned State counsel has argued that there are serious allegations against the petitioner as she in furtherance of her common intention with co-accused with whom she was having illicit

relationship, abetted suicide by the victim. Therefore, it is argued that petitioner does not deserve to be given concession of bail.

5. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

6. It is not disputed that the victim had died suicidal death. As per the allegations, her suicide was abetted by the co-accused Vijay Pal Singh in connivance with the present petitioner with whom he is alleged to be having illicit relationship. The plea as taken by the petitioner on the other hand is that since her daughter was suffering from health issues, therefore, the victim was under mental depression due to that reason and the same was cause of her suicide. The well settled proposition of law is that in order to bring out an offence under Section 306 of IPC, specific abetment as contemplated under Section 107 of IPC on the part of the accused with an intention to bring out the suicide of the person concerned as a result of that abetment is required. It must be shown that there was any aid or instigation or abetment by the accused to the deceased to commit suicide. Some proof of direct or indirect act of incitement to the commission of suicide by the accused is to be shown by the prosecution and only allegations of harassment by the accused do not suffice. In this case, however, at this stage, there is no material to show proof of any incitement, instigation or aid on the part of the present petitioner in abetting the suicide by the victim. The victim is in custody for a period of about one year. The trial is likely to take time.

This Court cannot go into the merits of the case and it is only after

considering the evidence to be produced before the trial Court and on thorough assessment of the same that findings as to involvement of the petitioner or otherwise can be given as such, in my considered opinion, further detention of the petitioner in custody would not serve any useful purpose. Accordingly, the petition is allowed, the petitioner is ordered to be released on bail subject to her furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

7. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
8. Since the main petition has been allowed, pending application if any is rendered infructuous.

2nd April, 2024

Parveen Sharma

[MANISHA BATRA]

JUDGE

1. Whether speaking/ reasoned

2. Whether reportable

:

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Yes / No

Yes / No