

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-8808-2024 (O&M)
Date of decision: 21.03.2024

Sukhpal Varni and another ...Petitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sushil Jain, Advocate
for the petitioners.

Ms. Nidhi Gupta, AAG, Haryana.

Mr. Aman Pal, Advocate
for respondent No. 2/complainant.

MANISHA BATRA, J. (Oral)

1. CRM-11158-2024

Allowed as prayed for, subject to all just exceptions.

The transcript along with the pen drive and other documents are
taken on record as Annexures R-1 to R-5.

2. CRM-M-8808-2024 (O&M)

This petition has been jointly filed by the petitioners under
Section 438 of Cr.P.C. for grant of anticipatory bail in case bearing FIR
No. 55 dated 30.01.2024, registered under Sections 306 and 34 of the IPC at

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Police Station Thanesar Sadar, District Kurukshetra, on the basis of a written complaint filed by complainant Vikramjeet Singh.

3. Brief facts of the case relevant for the purpose of disposal of this petition are that on 29.01.2024, on receipt of an information that one Bhumika had got herself locked in a room of her matrimonial house and was not opening the same despite the presence of her own parents as well as members of her in-laws family, a police party immediately rushed at the spot. The door of the room, wherein the victim had locked herself, which was bolted from inside, was opened and the dead body of the victim was found hanging with the ceiling fan over the bed with a noose tied with a *Dupatta*. Forensic team was called. A two pages note and one mobile phone were recovered from the pocket of the lower, which the victim had worn. The inquest proceeding was conducted. Post-mortem examination of the dead body of the victim was also conducted. On the next day, father of the victim, namely Vikramjeet Singh, recorded a statement before the police alleging therein that the accused Akshay, who is son of the present petitioners, had allured the victim and had got married with him. After her marriage, the victim was not allowed by her husband and his family members to meet them. On 26.01.2024, the complainant himself had gone to meet his daughter at her nuptial home as it was her birthday on the next day. The victim had told him to take her along with him. Though, the petitioners and accused Akshay did not seem to be inclined to send her with the complainant but somehow on the insistence of the victim, she was taken by him to his house. He alleged that the victim disclosed to her mother that she was not happy at her matrimonial house as she was maltreated by her husband and other members of her in-laws family

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and was not even allowed to come out of her room. She also disclosed that her husband was previously married and had a six years' old daughter.

4. As per further statement recorded by the complainant, the victim was forcibly brought back by accused Akshay from the house of the complainant on the very next morning. On 29.01.2024 at about 04:00 PM, she had sent some Whatsapp messages on his mobile phone and on the phone of his wife asking them to take her with them from her matrimonial home. Some time thereafter, they tried to call her on her cell phone but the same was found to be switched off. Feeling suspicious, they had rushed towards the matrimonial house of the victim. The present petitioners, who were present there, could not give any satisfactory reply about the whereabouts of the victim. They had also found her room to be closed and then had given information to the police. He also alleged that Whatsapp messages received by them shortly before the commission of act of suicide by the victim and the video, which was found in the mobile phone recovered from the pocket of her lower, proved that she had committed suicide due to being harassed by her in-laws. A case under Section 306 read with Section 34 of IPC was registered. Investigation has started and is going on. The petitioners along with co-accused Akshay had moved an application for grant of pre-arrest bail before the Court of learned Additional Sessions Judge, Fast Track Court, Kurukshetra but the same had been dismissed, vide order dated 12.02.2024.

5. The instant petition has been filed by the petitioners on the grounds and it has been argued by their counsel that they have been falsely implicated in this case. In fact, their son Akshay and the victim were posted as Associate Professor and Assistant Professor, respectively in Dayal Singh

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College, Karnal. Intimacy had been developed between them. The fact that their son was a divorcee was within the knowledge of the victim. They had finally decided to perform marriage with each other. However, the family of the victim had refused to accept this alliance and against their wishes, the victim had performed marriage with Akshay. Respondent No. 2/complainant had even lodged an FIR under Section 346 of IPC qua missing of his daughter. The victim herself had gone to the police and had sworn affidavit to the effect that she had performed marriage with co-accused Akshay while knowing the factum of his being divorcee and the said FIR had been cancelled. The relationship between the victim and themselves was very cordial and they were living happily. Respondent No. 2/complainant had visited their house on 26.01.2024 and had expressed his desire to take the victim to their house for celebrating her birthday, which was on 27.01.2024. On that day, co-accused Akshay had gone to pick her up. He along with the victim and her parents had taken lunch and both of them had come back home. It is submitted that after reaching back, the victim had disclosed to them that she was not allowed to even sleep by her father and brother on the previous night and they had humiliated and abused her. Her brother had used even derogatory words against her and she was very depressed.

6. It is further submitted by learned counsel for the petitioners that on 30.01.2024, the complainant along with 5/6 more persons had directly entered into their house on 04:35 PM and had asked about his daughter. Since the victim used to stay on the first floor and the petitioners stayed at the ground floor, they had disclosed this fact to the complainant, who did not try to open the door of the room of victim but had straightaway called the police.

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It is submitted that a suicide note was recovered from the pocket of the lower of the victim along with a mobile phone. The victim had committed suicide on feeling disturbed due to the humiliation given to her by her own family members and there was no abetment of any sort whatsoever on their part in commission of act of suicide by the victim.

7. It is further argued by learned counsel for the petitioner that in fact it is the father and brother of the victim, who are responsible for abetting suicide by the victim and not the petitioners. It is further submitted that the custodial interrogation of the petitioners is not required. They are ready to join investigation. The ingredients for commission of offence under Section 306 of IPC even otherwise are not made out against them. The video recording contained in the mobile phone recovered from the pocket of the victim would also show that the petitioners were not involved in any manner in instigating the victim to commit suicide. It is also argued that the note written by the victim has been recovered from her pocket, which is her suicide note, and it clearly shows that the victim was hypersensitive and was very much disturbed from the behaviour of her own family members. The treatment given by her family members when she had gone to her parental house on 26.01.2024, was such which must have provoked her to commit suicide. With these broad submissions, it is argued that the petitioners deserve to be given benefit of pre-arrest bail.

8. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has vehemently argued that even at this stage of investigation, there is sufficient material on record to show that the victim had been induced to perform marriage with co-accused Akshay, who was older

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than her and besides being a divorcee, was also having a daughter from his first marriage but this fact had apparently been concealed from her. It is strenuously argued that though only some part of the video, which was recorded by the victim just before her death, is audible but that itself is sufficient to show that the victim was induced and emotionally pressurized to perform marriage with co-accused Akshay. The complainant has also placed on record Annexure R-3, copy of Whatsapp Chat, which is shown to have taken place between the victim and her mother from 27.01.2024 till 29.01.2024. While drawing attention to this chat, learned State counsel, assisted by learned counsel for the complainant, has submitted that the instigation and coaxing on the part of the petitioners as well as co-accused Akshay to abet suicide by the victim is evident. It is also submitted that the last Whatsapp message sent by the victim also shows that the note recovered from the pocket of her lower was not her suicide note. It is further argued that the custodial interrogation of the petitioners is required for proper investigation of the matter by the police to prove as to why and under what circumstances, the last Whatsapp message at 3:59 PM had been sent by the victim to her mother. Therefore, it is argued that the present petition is liable to be dismissed.

9. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

10. The victim has admittedly died a suicidal death within a period of 06 months of her marriage with the son of the petitioners. The parties are levelling allegations and counter allegations as to who is responsible for the death of the victim. According to the petitioners, the contents of the note,

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recovered from the pocket of the lower of the victim, which is her suicide note, are reflective of the fact that the victim was hypersensitive and it was on account of the mistreatment given to her by her parents and brother on 26.01.2024, when she had gone to her parental house for celebrating her birthday, that she was traumatized to such an extent that she considered that no other option was left with her except to end her life. Whereas, the contention as raised by the complainant side is that the writing so recovered from her pocket is not a suicide note. Rather, whatsapp messages, which were sent by the victim to her mother from 27.01.2024 to 29.01.2024, especially the last message, are sufficient proof of the fact that she was forced to commit suicide on being victimized by the petitioners and her husband.

11. The abetment to suicide is mentioned under Section 306 of IPC and the abetment of any thing is defined under Section 107 of IPC. The scope and ambit of Section 107 of IPC and its co-relation with Section 306 of IPC has been discussed in several pronouncements of Hon'ble Supreme Court, as per which, the abetment involves a mental process of instigating a person or intentionally aiding a person in doing of a thing. It also requires an active or direct act, which led the deceased to commit suicide seeing no option and that act must have been intended to put the deceased into such a position that he/she committed suicide. In this case, both the parties have levelled allegations/counter allegations as to involvement of other party in abetting the suicide of the victim. Though, at the stage of deciding the prayer for grant of pre-arrest bail, no conclusion can be drawn or is required to be drawn with regard to allegations respectively levelled by the parties, however, since in this case, both the parties, while relying upon the same material, have levelled

allegations that the other party was responsible for the death of the victim, therefore, this Court considers it appropriate to discuss the contentions raised by the parties in reference to the material so relied upon/placed on record by them.

12. During the course of argument, there was no dispute between the parties about the fact and it is also revealed from the FIR itself that one cell phone make Realme and one note had been recovered from the pocket of lower of the victim. Both the parties have placed on record a video recorded by the victim shortly before her death in the form of Compact Disc and Pen Drive respectively as well as a copy of the above said note, which according to the petitioners is the suicide note of the victim. Annexure P-6 is one page of the said note, placed on record by the petitioners, whereas learned State counsel has placed on record both the two pages of this note. This Court will discuss the contents of this note in the subsequent paragraphs of this order because it is relevant to discuss these contents in reference to the messages, which were sent by the victim through Whatsapp to her mother during the period from 27.01.2024 to 29.01.2024. These messages, along with the dates on which they were sent, are reproduced below:

Sent on 28.01.2024 at 07:28 PM	“Mummy koi esa wesa message ni krna nahi ye log bolenge ki aap bhadka rhe ho.”
Sent on 28.01.2024 at 07:29 PM	“Reply ni krna jab tak na bolu”
Sent on 28.01.2024 at 07:30 PM	“Good morning wagera ka bhej diya kro bass”
Sent on 29.01.2024 at 01:07 PM	“Aapki yaad aari mummy”
Sent on 29.01.2024 at	“Mummy jaldi aa jao. Mujhe ghar

03:59 PM	le jana. Aur pocket mein ek phone hai usme saboot hai, ek video hai. Use saath le Lena. Realme ka light green colour ka phone hai. Aur pocket mein page hoga use fek dena. Yaha dustbin mein feka toh gadbad ho sakti hai.”
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13. On a perusal of the last message, which is shown to have sent by the victim to her mother at 03:59 PM and a copy of which has been placed on record as Annexure R-3 (colly.), it is quite apparent that the victim had sent this message when she had made all preparations for ending her life and also that she did not want the page(s), kept in her pocket, to be received by anyone else except her mother and also wanted that the contents of the video, recorded in her phone, come to the knowledge of her mother. Though this video which is shown to have been recorded for about 20:50 minutes but unfortunately only about 06 minutes part of the same is audible. The contents of this video have been watched by this Court, wherein the victim is shown to be explaining the circumstances, which led her to perform marriage with the son of the petitioners. From this video, no inference as to any proximate link between the death of the victim and abetment of the same either by the petitioners’ side or by the complainant’s side can be drawn.
14. Further, on going through the contents of the two pages note, recovered from the pocket of the victim, in context with the message sent by her to her mother at 03:59 PM, it is apparent that the note so kept by the victim in her pocket cannot be considered to be a suicide note. In the first page of this two pages note, she is shown to be giving vent to her feelings and also explaining the circumstances under which she had performed marriage with

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the son of the petitioners and also complaining about the treatment given by her family members to her after her marriage but quite strangely, the second page of this very document contains a writing, shown to be jointly signed by the victim as well as her husband Akshay on 18.12.2023, which creates a suspicion at this stage that both these pages were written at one and the same time i.e. on 18.12.2023. At the second page of this note, co-accused Akshay is shown to be taking a pledge that his relationship with his wife i.e. the victim will not be affected by any external factors. Though the authenticity and admissibility of this note will be considered by the trial Court while giving finding based on thorough assessment and evaluation of the evidence to be led by the parties but in view of all the observations as made above, it also cannot be ignored at the same time and taking it into consideration, it is a highly debatable question that the family members of the victim were involved in abetting suicide by her.

15. The victim died a suicidal death in a room of her matrimonial house within six months of her marriage. She was only about 25 years' old girl. As alleged in the FIR, when the parents of the victim had rushed and reached at her nuptial home on receiving the last message sent by her and asked the petitioners about the whereabouts of the victim, no satisfactory answer had been given by them. As such in the considered opinion of this Court, thorough investigation is required to be conducted in the matter and for that purpose, the custodial interrogation of the petitioners may also be required.

16. More so, it is well settled proposition of law that the powers under Section 438 Cr.P.C. are to be exercised in extraordinary and exceptional

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circumstances. The Court is also required to see that an order of anticipatory bail does not operate as inroad in the normal legal procedure of criminal cases by the trial Court. At the time of deciding such application, the Court has to consider the nature of offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses as well as larger public interest. Keeping in view the discussion as made above, I am of the considered opinion that no extraordinary or sparing circumstances entitling the petitioners to seek concession of pre-arrest bail has been made out. Accordingly, the present stands dismissed.

16. However, It is made clear that the observations made herein above are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

21.03.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>