

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

212

CRM-M-9676-2024
Date of decision: 07.03.2024

Amrinder Singh @ Amninder Singh

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Dr.Anmol Rattan Sidhu, Senior Advocate with
Mr. Shiv Kumar Sharma, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Tanvir Singh Grewal, Advocate,
for the complainant.

SUMEET GOEL, J. (ORAL)

1. Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.177 dated 08.10.2023 registered for the offences punishable under Sections 306/34 of IPC, at Police Station Bhawanigarh, District Sangrur.

2. The case set up in the FIR in question is as follows:-

“Statement of Malwinder Singh son of Hardam Singh resident of Village Daba Police Station Guhla District Kaithal, Haryana, aged about 48 years. 9815181760. Stated that I am resident of above said address. I am doing agriculture. I have a daughter named Harpreet Kaur aged 28c years and younger to her is son Chamkaur Singh and younger to all is Gurpreet Singh. My wife Narinder Kaur is a homely lady. My daughter Harpreet Kaur has studied upto M.A. The marriage of Harpreet Kaur was solemnized about 3 years back with Amninder Singh son of Baljinder Singh resident of Guru Tegh Bahadur Colony,

Bhawanigarh. Harpreet Kaur has a son named Kabir Singh aged about 2 years. After 6 months of the marriage, the father in law of my daughter started demanding dowry and started giving taunts to my daughter that you have not brought refrigerator and L.C.D etc. I took along with me my brother in law (Sala) Sukhwinder Singh son of Gurdial Singh resident of Barna Kheri and reached at Bhawanigarh and in his presence given an amount of Rs.1 Lakh to Amninder Singh son in law, Baljinder Singh kurram and Mandeep Kaur mother in law. I had said to them to purchase the articles of your own choice. When my daughter had given birth to the child, Mandeep Kaur mother in law insisted and they forcibly got an amount of Rs.35000/- from me as the expenditures of the hospital. After delivery, we brought the daughter and her child at our home. Then we received threat at our home and at the asking of our kudmani, we had given gold karra to the child and had given gold chain to Harpreet Kaur, which were weighing about 4 tola. Then on dated 31.12.2022, when it was the birth day of my daughter Harpreet Kaur, at the asking of Amninder Singh, I had given cash amount of Rs.50,000/- to Mandeep Kaur and Amninder Singh. Then at the time of marriage of my son Chamkaur Singh, Mandeep Kaur kudmani said to give karra to her son, ring to her husband Baljinder Singh. But we had spent huge amount on the marriage, therefore, I had only given ring to Amaninder Singh and given ear rings to Harpreet Kaur. Therefore, we did not fulfill their demand. They had started causing harassment to my daughter. My daughter Harpreet Kaur said to my wife Narinder Kaur that her mother in law is saying that now your brother Gurpreet Singh has gone abroad and therefore to get Rs.10 Lakh from him for purchase of new big car. Then, I took Sukhwinder Singh along with me and asked the in laws family of my daughter that if you want to keep my daughter harassed, then to have a sitting and to decide the matter. My kudmani tendered apology and said that she will not do such mistake in future. But she did not mend her ways. My daughter Harpreet Kaur made phone call to her mother Narinder Kaur that her mother in law Mandeep Kaur, husband Amninder Singh, father in law Baljinder Singh are

causing enough harassment to her, so that I may call again and again to my parental family and to bring Rs.10 Lakh. One day prior to the occurrence, my daughter Harpreet Kaur made phone call to my wife Narinder Kaur that her husband Amninder Singh used to stop her from making phone call at her parental house and stopped her from telling anything of his house to her parental family. We had doubt that he has caused harassment to our daughter and we made video call. But they did not attend the mobile. On dated 07.10.2023 at 3:38 PM, Dr. Gurmit Singh maternal uncle of Amninder Singh made phone call to me and said to us to come immediately. When, I had enquired about the reason, he did not disclose anything. Then I took along with my son and wife and reached at the house of my daughter, but nobody was found there. We went upstairs in the room and saw that our daughter Harpreet Kaur was lying on the bed and bedspread was put on her. We put the bedspread aside and saw that our daughter was dead. Her hand and feet were bluish and her body was cool. I had checked her vein but it was stopped. Mandeep Kaur mother in law, Amninder Singh (son in law) and Baljinder Singh (father in law) son of Darbara Singh are responsible for the death of my daughter. They are greedy family. They have committed this occurrence in connivance with each other. Consequently, my daughter Harpreet Kaur has committed suicide. It is worth mentioning here that Dr. Gurmit Singh maternal uncle of Amninder Singh after giving information of this occurrence was never on the spot and has never met us. We have made repeated phone call, but he did not attend the phone call. His involvement may also be enquired in the depth. My son Chamkaur Singh had stored the dead body of my daughter in the mortuary of Civil Hospital Sangrur. I have got typed my statement in the presence of my relative Gurwinder Singh son of Surjit Singh resident of Sehajpur Kalan, which is read over and is correct. Action be taken against Mandeep Kaur, Amninder Singh and Baljinder Singh. Sd. Balwinder Singh. Attested by Gurwinder Singh son of Surjit Singh resident of Sehajpur Kalan. Attested by ASI Palwinder Singh 1119/Sangrur Police Station Bhawanigarh dated 08.10.2023.”

3. Learned senior counsel for the petitioner has argued that the petitioner is in custody since 09.10.2023 & challan in the case already stands filed after investigation. Learned senior counsel has relied upon the statements of the witnesses, namely, Darshan Singh & Gurdial Kaur to argue that on the date of the alleged occurrence, hot words were exchanged between the deceased-Harpreet Kaur and her mother-in-law whereinafter Harpreet Kaur committed suicide. Learned senior counsel has further argued that the charges framed against the petitioner, as on today, is under Section 306 of IPC. To buttress his argument, learned senior counsel for the petitioner has relied upon the dicta of the judgment passed by the Hon'ble Supreme Court in the case of **Mohit Singhal vs. State of Uttarakhand**, reported as 2023 INSC 1035, relevant portion whereof reads as under:-

“Section 306 of the IPC makes abetment to commit suicide as an offence. Section 107 of the IPC, which defines the abetment of a thing, reads thus:

"Section 107 -- Abetment of a thing.- A person abets the doing of a thing, who-

First.-Instigates any person to do that thing; or

Secondly.-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

Thirdly.-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or

procure, a thing to be done, is said to instigate the doing of that thing."

(underline supplied)

9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to commit suicide. Hence, the accused must have mens rea to instigate the deceased to commit suicide. The act of instigation must be of such intensity that it is intended to push the deceased to such a position under which he or she has no choice but to commit suicide. Such instigation must be in close proximity to the act of committing suicide."

Thus, regular bail is prayed for.

4. Learned counsel for the State has opposed the present petition by arguing that the allegations raised are serious in nature and, thus, the petitioner does not deserve the concession of regular bail.

5. Learned counsel for the complainant has vociferously opposed the grant of regular bail to the petitioner by arguing that the allegations made against him are very serious in nature and the case, in fact, is one of attracting offence of Section 304-B of IPC.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 09.10.2023 whereinafter challan was presented on 29.11.2023 after completion of investigation. Total 16 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contentions of the learned counsel for the parties as to whether offence under Section 306 of IPC is made out against

the present petitioner or not will be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. The learned Sessions Court, Sangrur had granted regular bail to a co-accused, namely, Baljinder Singh (father-in-law of the deceased) on 18.01.2024 but there is no allegation against the said accused, namely, Baljinder Singh for having misused the concession of regular bail. Nothing tangible has been brought forward against the present petitioner indicating his likelihood of absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 06.03.2024 filed by the learned State counsel, petitioner has suffered incarceration for about 05 months & is not shown to be involved in any other case. Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of this case.

8. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.

- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(SUMEET GOEL)
JUDGE

March 07, 2024
poonam

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No