

2024:PHHC:031165

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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CRM-M-12724-2023
Date of decision: 05.03.2024

AMANDEEP SINGH

....Petitioner

V/s

STATE OF PUNJAB

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.K.Singla, Advocate,
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

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.156 dated 05.12.2022 registered for the offences punishable under Sections 306 & 34 of IPC, 1860 at Police Station Boha, District Mansa.

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

“Copy of statement, statement of Shingara Singh Son of Santa Singh Son of Gurmukh Singh resident of Gilla Khera, District Fatehabad aged about 60 years, M. No. 94164-37326 stated that I am resident of above mentioned address and working as a laborer. I have six children. My daughter Harman Kaur aged about 24 years who from last three years married with Amandeep Singh Son of Sukha Singh Son of Jit Singh, resident of Jiwan Nagar, Reond Kalan and who is having no child. My daughter Harman Kaur was usually harassed and beaten by her mother-in-law Meto Kaur and her husband Amandeep Singh. We were bring my daughter at village number of times due to harassed

and beaten to my daughter by her mother-in-law Meto Kaur and her husband Amandeep Singh but thereafter, Amandeep Singh and Meto Kaur bring her back after taking us into confidence and thereafter, after some time again started harassing. My daughter Harman Kaur usually told us that my mother-in-law and my husband were harassing/torturing me severely and I wanted that I commit suicide, to whom, we make understand number of times not to take this step. Yesterday on 04.11.2022, we came to know that my daughter Harman Kaur was got admitted at Hospital Ratia and when we reached there then came to know that my daughter Harman Kaur committed suicide by hanging herself by fixing scarf with ceiling fan of room constructed in the residential house. I fully belief that my daughter Harman Kaur committed suicide/end her life due to harassing/torturing by her mother-in-law Meto Kaur and husband Amandeep Singh. Strict legal action be taken against them. I was coming alongwith my Son Shinda in Police Station before you for recording the statement but you met at Bus Stand. Statement recorded with you, correct. Sd/- Shingara Singh, statement verified by Shinda Son of Shingara Singh, resident of Gilla Khera, District Fatehabad. Sd/- Shinda. Attested by Sd/- Gurmeet Singh ASI, P.S. Boha, dated 05.12.2022.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 05.12.2022 and the trial is underway. Learned counsel for the petitioner has further argued that the private/material witnesses already stand examined and, thus, there is no scope of the petitioner interfering with the prosecution evidence. Learned counsel has further submitted that the offence under Section 306 of IPC is not made out from the evidence brought on record along with the challan as also the testimonies of the witnesses recorded during the course of trial. To buttress his argument, learned counsel for the petitioner has relied upon a

judgment of the Hon'ble Supreme Court in **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. I have heard counsel for the parties and have gone through the available records of the case.

6. The petitioner was arrested on 05.12.2022 whereinafter investigation was carried out & challan was presented on 03.02.2023. Total 12 prosecution witnesses have been cited out of which the material witnesses already stand examined. The rival contentions of the learned counsel for the parties as to whether offence under Section 306 of the IPC is made out or not in the factual gamut of the instant case shall 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. Nothing perceptible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the remaining prosecution evidence. As per the custody certificate dated 04.03.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 01 year and 03 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 the present case.

7. 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.

8. 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.

9. Ordered accordingly.

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

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

(SUMEET GOEL)
JUDGE

March 05, 2024
poonam

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