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

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CRM-M No.13983 of 2024
Date of decision:07.05.2024

Inderjit Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vipin Mahajan, Advocate and
Ms. Chandanpreet Kaur Ahluwalia, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, Sr. DAG, Punjab.

Mr. Siddharth Gupta, Advocate,
for the complainant-respondent No.2.

MANISHA BATRA, J.

1. The instant petition has been filed under Section 438 Cr.P.C by the petitioner seeking pre arrest bail in case arising out of FIR No.229 dated 06.12.2023 registered under Section 306 of IPC at Police Station Beas, District Amritsar Rural, Punjab on the basis of statement recorded by the complainant-Gurmit Singh (brother of the victim-Balwinder Kaur) alleging therein that the victim was married with the present petitioner about 25 years back. His conduct with the victim had not been good and there used to be verbal spats between them. He also used to extend beatings to her and also used to stay out of home and was also not giving

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her money for her sustenance. Presently, he is having an extra marital affair with one – Baljit Kaur. After getting fed up with the behavior of the petitioner, the victim had committed suicide on 06.12.2023 by consuming some poisonous substance in front of the house of above said Baljit Kaur. He alleged that the suicide by the victim had been abetted by the petitioner. The investigation proceedings have been initiated. During the course of investigation, the complainant presented a pendrive containing a video recorded by the victim Balwinder Kaur just before committing suicide. The investigation is underway and the petitioner as well as Baljit Kaur who has been nominated as co-accused have not been apprehended and arrested so far.

2. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. The allegations as levelled against him even if admitted to be correct on the face of the record do not make out any case for invoking the provisions of Section 306 of IPC. The victim did not leave any suicide note. The allegation that the petitioner was having extra marital affair did not amount to mean that he had instigated or aided the commission of suicide by the victim. The harassment allegedly meted out by the petitioner do not amount to instigation. The petitioner is ready to join the investigation. His custodial interrogation is not required. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be extended benefit of pre arrest bail. To fortify his

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argument, learned counsel for the petitioner has placed reliance upon authorities cited as **K.V. Prakash Babu v. State of Karnataka**, 2017 (1) R.C.R. (Criminal) 60; **Amalendu Pal @ Jhantu v. State of West Bengal**, 2010 (1) R.C.R. (Criminal) 643 and the judgment passed by Coordinate Bench of this Court in CRM-M No.2386 of 2022 titled as **Maam Gujjar @ Maam Hussain v. State of Punjab**, decided on 21.01.2022.

3. Status report has been filed by the respondent No.1-State, as per which, the victim had committed suicide outside the house of co-accused Baljit Kaur by consuming some poisonous substance. During the course of investigation, call detail records of the petitioner and co-accused Baljit Kaur had been collected which revealed that from the period 31.10.2023 till 06.12.2023, as many as 208 calls were exchanged between them. The deceased had also prepared a video just before committing suicide which was to be considered as her dying declaration and the contents of these video reveal that she was committing suicide due to the atrocities and harassment meted out to her at the hands of the petitioner. The custodial interrogation of the petitioner is required for thorough investigation in the matter. No extraordinary and sparing circumstance has been made out for extending benefit of pre arrest bail to the petitioner. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the parties at considerable

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length and have gone through the record.

5. In a celebrated pronouncement of Hon'ble Supreme Court cited as *Siddharam Satlingappa Mhetre vs. State of Maharashtra and others : 2011 (1) RCR (Criminal) 126*, the parameters for grant of anticipatory bail had been succinctly laid down by making the following observations:

“122. The following factors and parameters can be taken into consideration while dealing with the anticipatory bail :

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution

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because over implication in the cases is a matter of common knowledge and concern;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.

123. The arrest should be the last option and it should be restricted to those exceptional cases where arresting the accused is imperative in the facts and circumstances of that case.”

6. As per the allegations, the petitioner used to harass the victim who was his wife and was maintaining extra marital affairs with other woman and at the relevant time, he was having affair with the co-accused Baljit Kaur. The victim feeling highly disturbed due to the act and conduct of the petitioner and proclamations made by him, had committed suicide outside the house of the co-accused Baljit Kaur by consuming some poisonous substance. The allegations against the petitioner are that he along with the co-accused was responsible for abetting suicide by the victim. A pendrive containing recording of a video made by the victim

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before her suicide, has been placed on record by the respondent-State which has been seen and heard by this Court and which shows that the victim who was admittedly married with the petitioner from the last 25 years was very upset due to the act and conduct of the petitioner who used to extend beatings to her and threaten her. This video recording also shows the victim saying that she had also been threatened by the petitioner who also proclaimed that he would not remain in jail even if she dies, as he would manage to come out of the same at the earliest by paying money. The victim is also shown to be saying that she was not given any money by the petitioner. It has also come on record that the younger son of the petitioner and the victim had been married just one month six days before the suicidal death of the victim. The allegations and counter allegations have been levelled at this stage by both sides as to who was responsible for suicidal death of the victim. The offence of abetment to suicide is mentioned under Section 306 of IPC and abetment of anything is defined under Section 107 of IPC. No doubt, abetment 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. Though at this stage, no definite conclusion can be drawn nor this Court is expected to draw any such conclusion with regard to the allegation as levelled by the parties, however, keeping in view the nature of the allegations which are shown to have been made by the victim herself in video recording

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prepared by her just before her death, prima facie it appears that the petitioner behaved with her in such a manner so as to coax, goad or instigate her to commit suicide and she was made to lead a life of deprivation to such an extent that she was compelled to end her life. From this video, inference as to proximate link between the death of the victim and abetment of the same by the petitioner can be prima facie drawn.

7. The petitioner is seeking benefit of pre arrest bail. The well settled proposition of law is that powers under Section 438 Cr.P.C. are to be exercised in extraordinary and exceptional circumstances. The Court is also required to see that an order of anticipatory bail does not operate as an inroad in the normal legal procedure of criminal cases by the trial Court. As discussed above, the Court has to see the nature of the offence, the role of the person, the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witness. The petitioner himself is a police official. Keeping in view the discussion as made above and on hearing the contents of the video recording made by the victim wherein she is heard saying that the petitioner used to extend threat to her to the extent that because of his official position, he would be let off even if she dies, I am of the considered opinion that the likelihood of his influencing the course of investigation or tampering with evidence including intimidating witnesses cannot be ruled out at this stage. The ratio of law as laid down in the authorities cited by learned

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counsel for the petitioner is that only because a husband is involved in extra marital relationship that cannot be regarded as mental cruelty for satisfying the ingredients of Section 306 of IPC and further that only when the Court finds that when by infliction of cruelty and harassment meted out to the victim he/she was left with no alternative but to put an end to her/his life. Since as discussed above, there is a video recording prepared by the victim before her committing suicide wherein she is shown to have specifically stated that not only the extra marital relationship of the petitioner but other acts as committed by him towards her were compelling her to end her life, therefore, in my opinion, the petitioner derives no benefit from the proposition of law as discussed in the cases as cited by him. No extraordinary or sparing circumstance, entitling the petitioner to seek concession of pre arrest bail is made out in this case. Therefore, finding no reason to allow the petition, the same is dismissed.

07.05.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No