



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217 CRM-M-20787 of 2024
DATE OF DECISION :- 12.08.2024

Parkasho ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present:- Mr. Pardeep Sihmar, Advocate for the petitioner.

Ms. Priyanka Sadar, AAG, Haryana.

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.134 dated 12.05.2023, registered for the offences punishable under Sections 34,306 of IPC at Police Station Kalayat, District Kaithal, Haryana.
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“The copies article is as follows. To Mr. SHO Sahib, Police Station Kilayat, Sir, the request is that I am Ramphal, son of Hawa Singh, resident of Uchana Kalan, district Jind and I work as a laborer. I have three children in which the elder daughter is Meenakshi, age 25 years, the younger one is Deepak. Age is 24 years, youngest age is 23 years, all the children are married. Meenakshi got married about 5-6 years ago in village Bihad Garhwal district Sonipat, about 1 year ago, due to discord with her in-laws, Meenakshi came to her home. About 10 months ago, Meenakshi, of her own free will, started living as husband and wife in village Matour with Intwari's son, Prakash resident



of Matour. Today at around 8 o'clock in the morning, Meenakshi called her younger brother Kuldeep to inform me that my family member, Intwari and his mother Prakash Sharu. Meenakshi told us all these things on the phone and Shyam informed us that Meenakshi had committed suicide by hanging herself. After getting the information, both I and When the boy and other friends of the family reached Meenakshi's village Mataur, they saw that Meenakshi's body had been placed on a bed, which Meenakshi, being extremely fed up with Intwari and her mother Prakash, ended her life. Strict legal action should be taken against these culprits. That we should go and get justice. Yours sincerely, Ramphal Proceedings Police Today, on 11.05.2023, in the evening, information was received at Bajaria Telephone Police Station that a woman from village Matour in Balmiki Basti has ended her life by hanging herself. After receiving this information, I and ASI Balwan Singh No. 674. M.S. Sanjay Kumar 1033, SPO Subhash Chand No. 78 Ba boarded the government train HR08GV-1837 and reached the spot of incident, village Mataur, where the body of the deceased Meenakshi was found lying on a cot, near the body, her father Ramphal, son of Hawa Singh, resident of Uchana Kala or her family members were found present, which Ramphal Presented a written complaint to M.C. to get a case registered by writing an article on finding that crime under section 306,34 IPC has been committed. Sanjay Kumar No. 1033 is being sent to the police station under charge sheet number. Information should be given through or special report should be sent to the service of Afsranwala through GMAIL. I am busy in SI proceedings under Section 174 CRPC, Aj village Mataur SD Gurudev Singh si ps kalayat dt 11.05.2023 at 11.20 pm Aj place police station received case number 134 dt 11.05.2023 Section 306,34 IPC Kalayat registered and copied by registering Actual complaint with police upcoming. It was given to the HC coming for investigation and sent to the investigation. The special report of



the First Information Report is being sent to the service of Bajaria GMAIL Officer Bala. The case is being filed in the presence of the above PSI Sandeep”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 12.05.2023. Learned counsel has further argued that the offence of Section 306 of IPC is not made out against the petitioner, in the factual matrix of the case. To buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgement of Hon’ble Supreme Court in Criminal Appeal No.3578 of 2023 titled as ‘***Mohit Singhal & Anr. Vs. The State of Uttarkhand & Ors.***, (Neutral Citation No.2023 INSC1035); relevant whereof reads as under:-

“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.”

Learned counsel for the petitioner has further argued that father and brother of the deceased have since been examined as prosecution witnesses and hence there is no likelihood of the petitioner to interfere with the prosecution evidence. In this view of the matter, learned counsel has prayed for grant of regular bail.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does



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not deserve the concession of the regular bail. Learned State counsel seeks to place on record custody certificate dated 11.08.2024 in Court, which is taken on record.

5. Ms. Monika Thakur, Advocate has filed vakalatnama for the complainant. The same be taken on record.

Learned counsel for the complainant has vociferously opposed the grant of anticipatory bail by arguing that the allegations made against the petitioner are serious in nature and hence anticipatory bail ought not to be granted to the petitioner.

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

7. The petitioner was arrested on 12.05.2023 whereinafter investigation was carried out and challan stands presented on 10.07.2023. Total 16 prosecution witnesses have been cited out of which two material prosecution witnesses namely father of the deceased and brother of the deceased have been examined. The rival contention of learned counsel for the parties; as to whether the offence of Section 306 of IPC is made out against the petitioner, in the facts and circumstances of the 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. The petitioner before this Court is a lady aged 50 years and hence her bail application ought to be considered in terms of the proviso to Section 480 of BNSS, 2023. While ratiocinating upon this provision (as contained in Cr.P.C, 1973) this Court in the case of ***Ravinder Kaur vs. State of Punjab (CRM-M-11503-2024)***, while relying upon the dicta of a judgment of the Hon'ble Supreme Court in a case of ***Satender Kumar Antil Vs.***



Central Bureau of Investigation & Anr., 2022(10) SCC 51, has granted the concession of regular bail to the petitioner therein, relevant thereof reads as under:

“51. Proviso to Section 437 of the Code mandates that when the accused is under the age of sixteen years, sick or infirm or being a woman, is something which is required to be taken note of. Obviously, the court has to satisfy itself that the accused person is sick or infirm. In a case pertaining to women, the court is expected to show some sensitivity. We have already taken note of the fact that many women who commit cognizable offenses are poor and illiterate. In many cases, upon being young they have children to take care of, and there are many instances when the children are to live in prisons. The statistics would show that more than 1000 children are living in prisons along with their mothers. This is an aspect that the courts are expected to take note of as it would not only involve the interest of the accused, but also the children who are not expected to get exposed to the prisons. There is a grave danger of their being inherited not only with poverty but with crime as well.

XXXX XXXX XXXX

58. Section 437 of the Code empowers the Magistrate to deal with all the offenses while considering an application for bail with the exception of an offense punishable either with life imprisonment or death triable exclusively by the Court of Sessions. The first proviso facilitates a court to conditionally release on bail an accused if he is under the age of 16 years or is a woman or is sick or infirm, as discussed earlier. This being a welfare legislation, though introduced by way of a proviso, has to be applied while considering release on bail either by the Court of Sessions or the High Court, as the case may be. The power under Section 439 of the Code is exercised against an order rejecting an application for bail and against an offence



exclusively decided by the Court of Sessions. There cannot be a divided application of proviso to Section 437, while exercising the power under Section 439. While dealing with a welfare legislation, a purposive interpretation giving the benefit to the needy person being the intendment is the role required to be played by the court. We do not wish to state that this proviso has to be considered favourably in all cases as the application depends upon the facts and circumstances contained therein. What is required is the consideration per se by the court of this proviso among other factors.”

Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 11.08.2024 filed by learned State counsel, the petitioner has already 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 case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on her furnishing bail/surety bonds to the satisfaction of the Ld. 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 herself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.



- (v) The petitioner shall deposit her passport, if any, with the trial Court.
- (vi) The petitioner shall give her cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change her cell-phone number without prior permission of the trial Court/Illaq 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

12.08.2024
P.Singh

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No