

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

223

CRM-M-23685-2024
Date of decision: 28.05.2024

TARSEM SINGH ALIAS SAMMI

....PETITIONER

V/s

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Karanjeet Singh Brar, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Amritpal Singh Maan, Advocate
for the complainant.

SUMEET GOEL, J.

1. Present petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case bearing FIR No.40 dated 06.03.2024, registered for the offences punishable under Section 306 of IPC at Police Station City Sri Muktsar Sahib District Sri Muktsar Sahib.

2. On 10.05.2024 , the following order was passed:-

“Apprehending his arrest in FIR No. 40 dated 06.03.2024 registered for offences punishable under Section 306 IPC at Police Station City Sri Muktsar Sahib, District Sri Muktsar Sahib; the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

Inter alia contends that the deceased was married about six years ago with nephew of the petitioner; deceased was suffering from depression as she was unable to bear a child; the facts of the case do not invoke the offence under Section 306 IPC & the petitioner is willing to join investigation and cooperate therein. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of the judgment of the Hon'ble Supreme Court in 'Naresh Kumar versus State of Haryana' 2024 INSC 149; relevant whereof reads as under:-

“To put it in other words, the guilt of the accused has to be determined on the basis of legal evidence on record. The question is : On what and where did the two courts falter? In our opinion, the two courts faltered as they failed to apply the correct principles of law to the evidence on record on the subject of abetment of suicide. The two courts got enamoured by just three things, (i) the deceased committed suicide within seven years of marriage, (ii) the accused was demanding money from the parents of the deceased for starting some business, and (iii) the deceased used to remain tense. We donot say that these are irrelevant consideration. All the three aspects are relevant. But there are settled principles of law to be made applicable to the matters of the present type. In the case of accusation for abetment of suicide, the court should look for cogent and convincing proof of the act of incitement to the commission of suicide and such an offending action should be proximate to the time of occurrence. Appreciation of evidence in criminal matters is a tough task and when it comes to appreciating the evidence in cases of abetment of suicide punishable under Section 306 of the IPC, it is more arduous. The court must remain very careful and vigilant in applying the correct principles of law governing the subject of abetment of suicide while appreciating the evidence on record. Otherwise it may give an impression that the conviction is not legal but rather moral.”

Notice of motion.

On asking of the Court, Mr. Adhiraj Singh, AAG, Punjab appears and accepts notice on behalf of the respondent-State.

Adjourned to 28.05.2024.

The petitioner is directed to appear before the Investigating Officer on 15.05.2024 at 11:00 A.M. in concerned Police Station and join investigation. In the event of arrest, the petitioner shall be released on interim bail subject to his furnishing personal/surety bond(s) to the satisfaction of the Arresting Officer/Investigating Officer. As and when further called by Investigating Officer, the petitioner shall join the investigation. He shall abide by the condition(s) enumerated under Section 438(2) of the Cr.P.C.”

3. Learned State counsel, on instructions from ASI Balwant Singh, has stated that pursuant to the order dated 10.05.2024, the petitioner has joined investigation and is no longer required for custodial interrogation.

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

5. In view of above, the present petition is allowed and interim order dated 10.05.2024 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.
6. This order should not be treated as “blanket” order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.
7. Liberty is reserved in favour of State/complainant to move for cancellation/recall of this order in case the petitioner violates any condition stipulated under Section 438(2) Cr.P.C., 1973 or upon showing any other sufficient cause.
8. Needless to say that anything observed herein above shall not be construed to be an opinion on the merits of the case.
9. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

May 28, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No