



208

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30553-2024 (O&M)
Date of Decision: 05.07.2024

Balwinder Singh

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Brijesh Nandan, 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.72 dated 19.12.2023, registered for the offences punishable under Sections 306 and 34 of IPC at Police Station Talwandi Chaudhrian, District Kapurthala, Punjab.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Statement of Jaswinder Kaur W/o Dalbir Singh r/o Batala Police Station Dhilwan District Kapurthala aged around 60 years Mobile No. 86994-73722 stated that I am a resident of the afore-mentioned address and work as a housewife. I have for children among whom my eldest son namely Baljeet Singh and younger to him is my daughter Usha Rani and younger to her is my son Sukhjinder Singh and the youngest of all is my daughter Kajal aged around 24 years who on dated 06.05.2021 on her own wish got married to Lakhwinder Singh S/o Balwinder Singh R/o Bidhipur Police Station Talwandi Chaudhriya. After six months of their marriage, he (Lakhwinder Singh) and the in-laws of my daughter Kajal started troubling her and we tried to settle the matter personally as well as via panchayat and to decide the same. Regarding this matter we gave a complaint in the police station Talwandi Chaudhriya against the father in-law Balwinder Singh S/o Singhara Singh but the same was compromised with the intervention of respectable persons and the panchayat as well. But they didn't mend their ways and my daughter Kajals' husband Lakhwinder Singh, her father-in-law Balwinder Singh,



her mother-in-law Paramjit Kaur W/o Balwinder Singh continued troubling her and didn't mend their ways at all. Kajal called us several times that her in-laws are troubling her repeatedly and beat her up. I am very upset that I might kill myself. That yesterday on dated 18-12- 2023 at night around 10:00 P.M. Lakhwinder Singh gave us a call and told us that your daughter Kajal hanged herself with a joist. And I hurriedly got her down from the joist and took her to the hospital where the doctor declared Kajal dead. You also come to the hospital and we are also taking Kajal's dead body to Civil Hospital Sultanpur Lodhi Mortuary and submitting the same. I am absolutely sure that my daughter has committed suicide on the pretext of harassment caused by Lakhwinder Singh S/o Balwinder Singh, father-in-law Balwinder Singh and mother-in-law Paramjit Kaur W/o Balwinder Singh. For my daughter's death, her husband, mother-in-law and father-in-law are responsible. Today, I have got recorded statement with you after reaching Civil Hospital Sultanpur Lodhi and legal action should be taken against them. I have got my statement written and also heard it and the same is found to be correct. I have got recorded this statement in the presence of my son Sukhjinder Singh. RTI Jaswinder Kaur along with Sd/- Sukhjinder Singh Sukhjinder Singh (confirmer) Verification SD Baldev Singh ASI Police Station Talwandi Chaudharia Dated 19-12-2023 Police proceedings: I, ASI am present as a Duty Officer in the police station and received a call from a Medical Officer regarding death of Kajal W/o Balwinder Singh r/o Bidhipur Police Station Talwandi Chaudharia who has committed suicide by hanging herself and her dead body is in the Civil Hospital Sultanpur Lodhi Mortuary. I, ASI along with ASI Manjit Singh 499/KPT:, Constable Gurjit Singh 1153/KPT:, P.H.C. Balwinder Kaur 28635, P.H.C. Akwak Singh 15539 by riding on a private vehicle reached Civil Hospital Sultanpur Lodhi where the mother of the deceased Jaswinder Kaur W/o Dalbir Singh r/o Batala Police Station Dhilwan District Kapurthala where I, ASI recorded her statement and read it over which after hearing and understanding the same she found it to be correct and gave a thumb impression with her right thumb and Sukhjinder Singh found the statement to be right and I verified the statement. That an offence be registered under Sections 306 and 34 IPC against Lakhwinder Singh S/o Balwinder Singh, Balwinder Singh S/o Singhara Singh and Paramjit kaur W/o Balwinder Singh R/o Bidhipur Police Station Talwandi Chaudharia District Kapurthala. The original statement be sent by hand through P.H.C Akwak Singh 15639 to register an FIR in the police station. FIR be registered and a number be assigned to it. Control Room be informed via wireless. Special reports be issued and sent to Senior Officer and Duty Magistrate. I, ASI along with my colleagues am busy at the spot with the investigation. SD Baldev Singh ASI Police Station Talwandi Chaudharia Dated 19-12-2023 present at Civil Hospital Sultanpur Lodhi at 1:10 P.M. Today, at police station:- on the receipt of the said statement by hand PHG, the above-said case has been registered and a copy of FIR along with original statement is being sent to ASI for further investigation. Control Room be informed via wireless. Special reports be issued and sent to Senior Officer and the Illaqa Magistrate by hand CT Gurvinder Singh 1044/KPT. Closed records be kept in police station. Closed vide Rapat No. 19 dated 19.12.2023 at 2:45 P.M."

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.12.2023. Learned counsel for the petitioner has further argued that the marriage between the deceased-Kajal and the son of the petitioner was a love marriage which took place on 06.05.2021 but the



couple could not pull-on well together due to temperamental differences between them. Learned counsel for the petitioner has further argued that the petitioner is a man aged about 52 years and does not keep very good health. Learned counsel, in order to buttress his argument, has relied upon the *ratio decidendi* of the judgment of the Hon'ble Supreme Court in the case of ***Mohit Singhal & another vs. The State of Uttarakhand & others***, reported as 2023 INSC 1035, 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.”

Thus, regular bail is prayed for.

4. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the 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 19.12.2023 whereinafter investigation was carried out & challan was presented on 16.02.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will, but of course, take its own time. The rival contention of the learned counsel for the parties; as to whether the offence of Section 306 of IPC is made out against the present petitioner in the factual matrix 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. 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 the custody certificate dated 04.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 6 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 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 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.

05.07.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No