



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

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**CRM-M-30437-2024
Date of decision: 04.10.2024**

SHIV RAM

....PETITIONER

V/s

STATE OF PUNJAB

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Akhil Aggarwal, Advocate with
Mr. Deepak Aggarwal, Advocate
for the petitioner.

Mr. Anup Singh, AAG, Punjab.

Mr. Parveen Moudgil, Advocate
for the complainant.

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.40 dated 22.02.2024 registered for the offences punishable under Section 306 of IPC at Police Station Sadar Kharar, District Mohali.

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

“Copy of Statement, Statement of Vikram Singh Son of Pala Ram Resident of Village Kalait, Teh and PS Kalait, District Kaithal, Haryana Age About 48 Years, Mo: No: 9050217010 Stated that I am a resident of the above address and I do farming and I am the current lambardar of the village. That my niece Poonam daughter of Mahaveer Singh resident of Village Kalait, Teh and Police Station Kalait, District Kaithal, Haryana got her marriage registered on dated 30-03-2023



wiht Shiv Ram Son of Debi Ram resident of Village Machali Kalan, Police Station Sadar Kharar District SAS Nagar and after that arranged marriage was performed on 08-09-2023 at Virk Palace Anaj Mandi Klat, Haryana as per Hindu rituals. In which we gave dowry according to our capacity. However, about 02 months after the marriage, Poonam's In-law family started demanding money from us to send Poonam and Shiv to abroad. The demand is beyond our capacity which we are unable to fulfill on which Shiv Ram alongwith his mother started harassing our niece Poonam. On which our niece Poonam remained very upset. Today I received a call from my niece Poonam's in-laws neighbor Ram Singh's mobile number 7973496113 on my mobile number 9050217010 at around 11:11 AM, that your niece Poonam has fallen after becoming unconscious, and is having problem in breathing, you should come and he hang up the phone. On which I called on the same number again, on which Ram Singh told me that Poonam has expired. After which I got a call from my niece Poonam's father-in-law Debi Ram from mobile number 6284618748 on my said phone number at around 11:59 AM, who told me that Poonam had hanged herself with a fan. On which I along with my brother Mahaveer Singh along with the family reached my niece Poonam's house at village Machali Kalan where a lot of people had gathered and the dead body of my niece Poonam was kept on the ground. My niece Poonam ended her life or died by hanging herself with a fan because of her husband Shiv Ram and mother-in-law's demand for money. The legal action may kindly be taken against Shiv Ram and Poonam's mother-in-law. I while becoming present in police chownki wrote my statement to yourself and which is correct. Sd/- Vikram Singh 9050217010, sd/- Mahaveer 9416252253 verified Sd/- Charan Singh I/C Choki Majat PS Sadar Kharar Date: 22.02.2024. ”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 24.02.2024. Learned counsel for the petitioner has submitted that no offence under Section 306 of IPC can be said to have been made out against the petitioner in the facts and circumstances of the case. Learned counsel for the petitioner has further that the petitioner had caught the deceased chatting with another boy and it is on this account that the deceased has committed suicide. To buttress his argument, learned



counsel for the petitioner has relied upon WhatsApp chat details (copy whereof has been appended as Annexure P-4 with the instant petition). In order to buttress his arguments learned counsel for the petitioner has relied upon the dicta of the judgment of Hon'ble Supreme in "***Mohit Singhal versus State of Uttarakhand***" relevant 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, Criminal Appeal no.3578 of 2023 Page 5 of 6 a thing to be done, is said to instigate the doing of that thing."

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."

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. Learned counsel for the State has further advanced submissions that the factum of alleged



whatsapp chats with the deceased (victim) is a matter of trial and being electronic evidence, its veracity and genuineness has still to be established be leading cogent evidence at this stage of trial.

5. Learned counsel for the complaint has raised submissions in tandem with the arguments advanced by the learned counsel for the State and has further argued that the case in hand pertains to Section 304-B of IPC, but the police has in connivance with the accused, sought to present challan under Section 306 of IPC only & the complainant is taking requisite steps for arraigning the petitioner as an accused for the offence under Section 304-B of IPC as well. It has been further argued that the petitioner has been involved in serious and heinous crime and there are serious apprehensions of his influencing prosecution witnesses in case he is enlarged on bail. Learned counsel for the complainant has further submitted that no veracity can be attached to the WhatsApp conversations/chat (copy whereof has been appended as Annexure P-4 with the instant petition). Learned counsel for the complainant has submitted that the said plea raised by the petitioner side is sham and frivolous and ought to be outrightly rejected.

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

7. The petitioner was arrested on 24.02.2024 whereinafter investigation was carried out & challan was presented on 24.04.2024. Total 13 prosecution witnesses have been cited and culmination of the trial will take its own time. The rival contention of the learned counsel for the



parties; as to whether the offence under Section 306 and Section 304-B of the IPC is made out against the petitioner & weightage/veracity required to be attached to the WhatsApp conversation/chat (copy whereof has been produced at Annexure P-4 with the instant petition) 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 trial. As per the custody certificate dated 04.10.2024 filed by the learned State counsel, petitioner has suffered incarceration for about 07 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.

8. 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.

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

October 04, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No