

CRM-M-32557-2023

- 1 -

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

CRM-M-32557-2023

Date of Decision : February 22, 2024

Jaswinder Singh @ Shinda and another

.....Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Naresh Kaushik, Advocate for the petitioners.

Mr. Mohit Saroha, AAG, Punjab.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 438 Cr.PC is for the grant of anticipatory bail to the petitioners in case FIR No.115 dated 13.08.2020 under Sections 306/34 IPC registered at Police Station Haryana, District Hoshiarpur.

2. The present FIR came to be registered at the instance of Charanjit Kaur wife of Narinder Singh deceased and reads as under :-

"Statement of Mrs. Charanjit Kaur wife of Mr. Narinder Singh resident of village Mithewal Police Station Haryana District Hoshiarpur age about 47 years phone No.9501547081. Stated that Iam a resident of the above address village and household lady. I have two children. A daughter eldest Pradeep Kaur is 25 years old and the youngest son

Sarabjit Singh is 24 years old. My husband Narinder Singh aged about 58 years had been working as laborer. Last night on 13.08.2020 at about 2 o'clock I woke up and called my husband then my husband did not respond. His body was already turned cold. Then we called a doctor from a nearby village and who examined him. The doctor said he was dead. Then we called our village Sarpanch namely Neelam Rani and other neighbors and searched the clothes worn by my husband. A hand written suicide note by my husband's pen was found in the left pocket of his pajamas. In which he wrote that Jaswinder Singh alias Shinda driver Mahilpur and Paramjit Singh former Sarpanch Panneda and his brother Manjinder Singh and his son were harassing me and my family and forcing me to die by making false complaints. By putting political pressure got an affidavit signed by my wife and me and did not allow to read the affidavit. Being disturbed by these four persons, my husband Narinder Singh has committed suicide by taking some poisonous drug. I have submitted a note written by my husband. Appropriate legal action should be taken against the said persons.

He made this statement in the presence of Lakho Sarabjit Singh Listen OK

Sd/
Charanjit Kaur"

3. The learned counsel for the petitioners contends that a compromise had been arrived at with respect to both the FIRs and so

far as FIR No.214 dated 28.10.2020 was concerned, the same stood quashed by this Court vide order dated 24.05.2020 (Annexure P3). Even otherwise, taking the allegations to be correct, no offence under Section 306 IPC was made out. As the petitioners are ready and willing to join the investigation, they were entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, submits that this is the second petition for the grant of pre-arrest bail filed by both the petitioners. The earlier petitions filed by them stood dismissed. Even at that time, the compromise was in existence but this Court had chosen to dismiss the petition on the ground that the suicide note contained the signatures of the deceased and the compromise if any could not be considered at that stage. He, therefore, contends that the present petition was also liable to be dismissed, since there were no change in circumstances.

5. I have heard the learned counsel for the parties.

6. Petitioner No.2 Mohinder Singh @ Manjinder Singh had sought the concession of anticipatory bail by filing CRM-M-26153-2020 and the same came to be dismissed vide order dated 04.09.2020. The said order is reproduced here-in-below :-

"Case is taken up for hearing through video conferencing.

Through the instant petition under Section 438 Cr.P.C., the petitioners seek anticipatory bail in case FIR No. 115 dated 13.08.2020 registered under Section 306 read with Section 34 IPC, at Police Station Haryana, District Hoshiarpur.

Learned counsel for the petitioners contends that the husband of the complainant was working as a travel agent. He was a habitual offender and because of the said fact many criminal cases had been registered against him. It is further submitted that as a matter of fact in the year 2011, the complainant and her late husband had taken an amount of Rs. 4 lacs from petitioner No. 2 for sending his son abroad but neither his son was sent abroad nor the money was returned. When petitioner No. 2 and one Jaswinder Singh had submitted a complaint to the police in this regard, the husband of the complainant was called in the police station, but he could not prove his innocence. It is further submitted that as the husband of the complainant had been under a huge debt, he committed suicide on account of the mental stress. It is, thus, contended that by lodging the present FIR, the complainant is trying to kill two birds with one stone i.e. firstly, falsely implicating the present petitioners so as to compel them not to demand their money back and secondly absolving herself of any liability to return the amount.

Notice of motion.

On the asking of this Court, Mr. Ajay Pal Singh Gill, DAG Punjab, accepts notice on behalf of the respondent-State.

At this stage, Mr. Kartik Gupta, Advocate, appears for the complainant.

Learned State counsel assisted by learned counsel for the complainant submits that in this case the deceased husband of the complainant has left a suicide note specifically naming the petitioners being responsible for his death. Thus, they vehemently oppose the prayer for anticipatory bail.

I have heard the learned counsel for the parties.

It is a case, where the deceased husband of the complainant has left behind a suicide note. He has specifically named the petitioners and one Jaswinder Singh, being responsible for his death as the said persons were allegedly making false complaints against the deceased regarding sending the people abroad. The allegations levelled against the petitioners are serious and, thus, they do not deserve the concession of anticipatory bail.

Dismissed.

04.09.2020 (HARNARESH SINGH GILL)
JUDGE "

7. Similarly, petitioner No.1 had approached this Court by filing CRM-M-25631-2021 for the grant of anticipatory bail. The said petition came to be dismissed on 3.2.2022 (Annexure P-7). The order passed

therein is reproduced here-in-below :-

" Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks anticipatory bail in case bearing FIR No.115 dated 13.08.2020, registered at Police Station Haryana, District Hoshiarpur, under Sections 306 and 34 IPC.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that he has no concern with the alleged crime, and that no role by an act of instigation or by doing certain acts to facilitate the commission of suicide, has been attributed to the petitioner, which could be said to have abetted the commission of suicide by deceased-Narinder Singh. Learned counsel further contends that in fact, Narinder Singh (since deceased) and the complainant had duped the petitioner and one Mahinder Singh of Rs.8 lakh on the pretext of sending them abroad, but neither they were sent abroad nor their money was returned; that they had reported the matter to the police, but with the intervention of the respectable, a compromise was entered on 05.03.2015 whereby the deceased and his wife agreed to pay back the amount within a period of four months; that in spite of the aforesaid assurance given by the deceased, he had never returned the amount and ultimately, FIR No.214 dated 28.10.2020, under Section 420 IPC and Section 13 of the Punjab Travel Professionals (Regulation) Act, 2014 was registered against the deceased and his wife; that

in addition to the present FIR, there were two other cases registered against the deceased, and that the allegations in the alleged suicide note are vague and have been made with an intention to wriggle out of the role attributed to the deceased and his wife in the FIR registered against them. Moreover, the matter has been compromised between the parties. On this premise, the learned counsel for the petitioner prays for the grant of bail to the petitioner.

On the other hand, learned State counsel, while opposing the submissions made by the learned counsel for the petitioner, submits that the petitioner has been specifically named in the suicide note left by the deceased. However, the learned State counsel has denied knowledge of any compromise effected between the parties. Moreover, the compromise, if any, between the parties is a result of an influence exercised by the petitioner and his co-accused over the deceased's wife.

Learned counsel appearing for the complainant does not dispute the factum of the compromise arrived at between the parties.

Mr. Jasraj Singh, Advocate, who on 26.11.2021 though withdrew his power of attorney on behalf of the complainant, but was requested to assist this Court, submits that the petitioner has been specifically named in the suicide note left by the deceased; that so far as FIR No.214 dated 28.10.2020 is concerned, the same pertains to the alleged transaction of year 2010, and that Narinder Singh committed suicide on 12.08.2020

whereas FIR No.214 was registered on 28.10.2020 i.e. after a period of two and half months of the registration of the present FIR. He prays that the petitioner is not entitled to the concession of anticipatory bail.

I have heard the learned counsel for the parties.

In the suicide note left by Narinder Singh, he has specifically attributed the committing of his suicide to the harassment at the hands of the petitioner and his co-accused. He has specifically named the petitioner and the co-accused being responsible for his death as they were allegedly making false complaints against the deceased qua sending the people abroad. He also stated that the petitioner and the co-accused had got his signatures forcefully and also did not allow to read the affidavit. As per the opinion of the handwriting expert, the handwriting in the suicide note matches with that of the deceased. The role attributed to the petitioner is identical to that of his co-accused, Parmjit Singh and Manjinder Singh whose petition seeking anticipatory bail stands dismissed, vide order dated 04.09.2020 passed by this Court in CRM-M-26153-2020.

So far as the compromise, if any, arrived at between the parties is concerned, the same cannot be considered, at this stage. Irrespective of the compromise, it is still required to be investigated as to whether Narinder Singh's suicide was abetted by the petitioner and his co-accused, especially when in his suicide note, Narinder Singh has specifically attributed his death to the petitioner and his co-accused.

In view of the above, this Court finds that the petitioner is required for custodial interrogation.

Therefore, finding no merit in the present petition, the same stands dismissed.

04.09.2020

(HARNARESH SINGH GILL)
JUDGE "

8. No change in the circumstances have been pointed out by the learned counsel for the petitioners entitling the petitioners to the grant of bail as the compromise is dated 18.10.2021 (Annexure P-2) and the bail petition of the petitioner No.1 came to be dismissed on 3.2.2022.

9. Even otherwise, the Hon'ble Supreme Court in **Daxaben Vs. State of Gujarat and others, 2022 AIR (Supreme Court) 3530**, has categorically held that proceedings under Section 306 IPC cannot be quashed on the basis of a compromise. The relevant extract of the judgment is reproduced as under :-

"In our considered opinion, the Criminal Proceedings cannot be nipped in the bud by exercise of jurisdiction under Section 482 Cr.P.C., 1973 only because there is a settlement, in this case a monetary settlement, between the accused and the complainant and other relatives of the deceased to the exclusion of the hapless widow of the deceased. As held by the three-Judge Bench of this Court in *Laxmi Narayan and Ors., (supra)*, Section 307 of the IPC falls in the category of heinous and serious offences and are to be treated as crime against society and not against the individual alone. On a parity of reasoning, offence under Section 306 of the IPC would fall in the same category. An FIR under Section 306 of the IPC cannot even be quashed

on the basis of any financial settlement with the informant, surviving spouse, parents, children, guardians, care-givers or anyone else. It is clarified that it was not necessary for this Court to examine the question whether the FIR in this case discloses any offence under Section 306 of the IPC, since the High Court, in exercise of its power under Section 482 Cr.P.C., 1973 quashed the proceedings on the sole ground that the disputes between the accused and the informant had been compromised."

10. In view of the fact that the offence is *prima facie* made out, there is no change in the circumstances for filing the instant 2nd petition, the earlier bail petitions having been dismissed and the offence under Section 306 IPC cannot be quashed on the basis of a compromise, I find no reason to grant the concession of anticipatory bail to the petitioners.

11. Resultantly, the present petition stands dismissed.

February 22, 2024
satish

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO