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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34918-2024 (O&M)

Date of Decision: 30.07.2024

SUKHWINDER SINGH

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.K. Singla, Advocate and
Ms. Suman Rani, Advocate for the petitioner.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

...

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 18.07.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled '*Abhishek Jain Vs. State of U.T. Chandigarh and another*' (CRM-M-31808-2024) **2024PHHC085784**, the instant petition is not maintainable under Section 439 of Cr.P.C., 1973. However, keeping in view the entirety of facts and circumstances of the case especially that the instant petition pertains to regular bail, the instant petition is directed to be considered as a petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.59 dated 06.03.2024, registered for the offences punishable under Section 306 of IPC at Police Station Sadar Mansa, District Mansa.

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2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

“Copy of statement, Statement of Sandeep Singh alias Mota Son of Dalbara Singh Son of Sita Singh, resident of Coloniya, Bappiana Road, Khiala Kalan, aged about 30 years, M.No.98727-29263 stated that I am resident of above-mentioned address and working as Truck Driver. My father Dalbara Singh has been expired. We are three brothers and sisters. Elder from all sister namely Simarjeet Kaur, elder brother Babbu Singh and younger from all is me. We all three are married. My marriage was solemnized about 6 years ago with Manpreet Kaur Daughter of Buta Singh, resident of Achanak. One child namely Maninder Singh was born from our wedlock and now who is about 3 years old. I with regard to work of Truck Driving usually out of house by travelling on Truck and due to this reason, I have to stay out of house for lot of time. Sister of my wife namely Kuldeep Kaur who was married at Village Dharamgarh, District Sangrur and my wife used to visit to meet her. My wife Manpreet Kaur was staying upset from some time and the reason for the same was asked from her then she told that about 04/05 months ago when I visited her sister Kuldeep Kaur at Dharamgarh then one boy whose name is Sukhwinder Singh Son of Tarsem Singh, resident of Satoj met me there and who by misleading my wife obtained her phone number from her and started talking with her on phone and above said boy put pressure upon my wife through phone for meeting and when my wife came to know about bad intention of that boy Sukhwinder Singh then she tried to make him understand that I am married and you do not to follow me. I cannot do like this then said boy started threatening to my wife and due to this reason, she remained upset. On 04.03.2024 I have gone to Suratgarh (Rajasthan) by taking Truck then yesterday i.e. on 05.03.2024 in morning my wife Manpreet Kaur told me on phone that the said boy is harassing me a lot and putting undue pressure to meet me and stating that if you will not do this then I will tell about this to your In-Laws family by coming in your house and who told me that the said boy would insult me after came here then what should I do after alive rather I will be good as dead. I wish that I can commit suicide. I make her understand very much that now I am very far away and I will solve out this matter by coming back to home in 1-2 days. Then my brother Babbu Singh told me on phone that your wife Manpreet Kaur committed suicide by hanging herself with rope hanging with nozzle of roof fan of room of our Colony. My wife Manpreet Kaur has committed suicide by hanging herself under the fearness of insult due to harassment of said boy Sukhwinder Singh. Legal action be taken against Sukhwinder Singh Son of Tarsem Singh, resident of Village Satoj, District Sangrur for compelling to my wife



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Manpreet Kaur for committing suicide. Statement got recorded with you, heard, correct. Sd/- Sandeep Singh.”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 06.03.2024. Learned counsel for the petitioner has further argued that no incriminating evidence is available in challan so as to show the culpability of the petitioner qua the alleged crime. Learned counsel for the petitioner has further argued that the offence of Section 306 of IPC is not made out against the present petitioner in the factual matrix of the case. Learned counsel, in order to buttress his argument, has relied upon the dicta 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 06.03.2024 whereinafter investigation was carried out & challan was presented on 01.05.2024. Total

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10 prosecution witnesses have been cited and culmination of the trial, but of course, will take its own time. The rival contention of the learned counsel for the parties; as to whether there is sufficient incriminating evidence available against the petitioner as also whether the offence of Section 306 of IPC is made out against the present petition in the factual matrix of the instant 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. The petitioner is a young man aged 24 years with no criminal antecedents. As per the custody certificate dated 29.07.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 04 months and 22 days. 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.



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- (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.

30.07.2024
Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned Yes No

Whether reportable Yes No