



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRM-M-34853-2024 (O&M)
Date of decision: 05.11.2024

Akshay Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Bipan Ghai, Senior Advocate with
Ms. Sharmila Sharma, Advocate,
Mr. Nikhil Ghai, Advocate and
Mr. Paras Talwar, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Rishabh Chaudhary, Advocate
for the complainant.

MANISHA BATRA, J. (Oral)

1. The present petition has been under Section 439 of Cr.P.C. seeking grant of regular bail to the petitioner in case arising out of FIR No. 55 dated 30.01.2024, registered under Sections 306 and 34 of the IPC at Police Station Thanesar Sadar, District Kurukshetra.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 29.01.2024, on receipt of an information that one Bhumika had got herself locked in a room of her matrimonial house and was not opening the same despite the presence of her own parents as well as members of her in-laws family, a police party immediately rushed at the spot. The door

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of the room, wherein the victim had locked herself, which was bolted from inside, was opened and the dead body of the victim was found hanging with the ceiling fan over the bed with a noose tied with a *Dupatta*. Forensic team was called. A two pages note and one mobile phone were recovered from the pocket of the lower, which the victim had worn. The inquest proceeding was conducted. Post-mortem examination of the dead body of the victim was also conducted. On the next day, the complainant, who is father of the victim, recorded a statement alleging that the present petitioner, who was previously married and divorced and was having a six years' old daughter, had allured the victim to get married with him by concealing the factum of his previous marriage. After her marriage, the victim was not allowed by the petitioner and his family members to meet the family of the complainant. He alleged that on 26.01.2024, he had gone to the matrimonial house of his daughter and had brought her as her birthday was falling on the next day. The victim had disclosed to her mother that she was not happy at her matrimonial house. In his statement, he further disclosed that on 29.01.2024, the victim had sent a Whatsapp message on the phone of his wife and himself, thereby asking them to take her from her matrimonial house and on reaching there, they found her room to be closed and then on giving information to the police and opening the door of her room, her dead body was recovered. He alleged that the victim had committed suicide due to being harassed by her in-laws. After registration of the FIR, investigation proceedings were initiated. The petitioner was arrested on 22.04.2024. Co-accused were extended benefit of pre-arrest bail by the Hon'ble Supreme Court. Investigation has since been completed and the petitioner along with co-accused is facing trial for commission of



aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 09.07.2024.

3. Learned senior counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner and the victim had fallen in love with each other. They had performed marriage against the wishes of the complainant. The fact that he was previously married and was having a daughter was very well known to the victim and on an FIR bearing No. 508 dated 12.09.2023, being lodged by the complainant, the victim had sworn an affidavit before the police to the effect that she was well aware about the previous marriage of the petitioner and had voluntarily performed marriage with him. It is further argued that in fact, it was the father and brother of the victim, who had been constantly harassing and humiliating her. Even on the day when she had gone to their house on 26.01.2024, the complaint and his son had taunted and harassed her. There is no proximate and live link between the suicide of the victim or any act and conduct of the petitioner, which can be stated to be amounting to abetment to suicide. Even in the suicide note or the alleged Whatsapp messages, no allegation has been levelled against the petitioner. The ingredients for commission of offence punishable under Section 306 of IPC have not been attracted at all in this case. The petitioner is in judicial custody since 22.04.2024. Trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Co-accused have already been granted concession of pre-arrest bail by the Hon'ble Supreme Court. With these broad submissions, it is argued that the petitioner deserves to be given benefit of regular bail.



4. *Per contra*, learned State counsel, assisted by learned counsel for the complainant, has vehemently opposed the prayer of the petitioner by submitting that the victim had committed suicide within a period of six months of her marriage on being instigated by the petitioner to do so. There are chances of the petitioner's tampering with the evidence and influencing the witnesses, if released on bail. There is *prima facie* sufficient evidence to show that the petitioner and his parents had instigated and aided the victim to commit suicide. Therefore, it is argued that the present petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the material placed on record.

6. As per allegations in the FIR, victim Bhumika has died a suicidal death on account of the instigation and maltreatment caused by the petitioner as well as his parents. It is also the allegation that the petitioner had performed marriage with her while concealing the fact of his being a divorcee and having a daughter from his first marriage. Several allegations and counter allegations with regard to abetting suicide by the victim have been levelled by both the parties against each other, which are required to be evaluated on the basis of the thorough assessment of the evidence produced during the course of trial by the trial Court and not by this Court at this stage. It is not in dispute that the victim had died a suicidal death. The petitioner is alleged to have abetted the suicide by her. Section 107 of IPC defines the offence of abetment. To constitute abetment, it is to be proved that the accused instigated a person either by act or omission. It is required to establish and show the *mens rea* on the part of the accused and further that in furtherance of that state of mind, he



abetted a crime. So far as Section 306 of IPC is concerned, the essential ingredients of this offence are the abetment and the intention of the accused to aid or instigate or abet a person to commit suicide. It is required to be proved that the person, who is alleged to have abetted the commission of suicide, played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. Merely on the allegations of harassment and without there being any positive action proximate to the time of occurrence on the part of the accused, which led or compelled a person to commit suicide, an accused cannot be convicted under Section 306 of IPC. In this case, the victim left certain notes and a Whatsapp message. However, on going through the same, this Court is of the *prima facie* opinion that it is a question of debate as to whether the petitioner had played any role by an act of instigation or by doing a certain act to facilitate the commission of suicide by the victim and that she was not left with any other option but to commit suicide and there was a clear *mens rea* on his part. The petitioner is in custody since 22.04.2024. Investigation has since been completed and after presentation of *challan*, the trial is going on and conclusion of the same is likely to take time. There is no basis to state that the petitioner, if released on bail, may tamper with the evidence or influence the witnesses. Therefore, keeping in view the discussion as made above, the period of incarceration of the petitioner and the attendant facts and circumstances of the case, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore.

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7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.
8. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

05.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>