

2024:PHHC:106781

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

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CRM-M-38900-2024

Date of decision:20.08.2024

Arun Kumar

....Petitioner

V/s

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Prashant Vashisth, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

SUMEET GOEL, J. (Oral)

The instant petition has been filed on 05.08.2024 under Section 439 of Cr.P.C., 1973 for grant of regular bail.

As per the judgment rendered by this Court titled as ***'Abhishek Jain Vs. State of U.T. Chandigarh and another (CRM-M-31808-2024:2024:PHHC:085784)***, 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 BNSS, 2023.

1. Present petition has been filed for grant of regular bail to the petitioner in case bearing FIR No.76 dated 15.04.2024, registered for the offences punishable under Sections 306/34 of IPC at Police Station Jamalpur, District Police Commissionarate, Ludhiana.

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

“Statement is made by Lalan Parshad s/o Sunaka Parshada r/o VPO Bisi Kalan, PS-Dinara, Distt-Bihar currently tenant of Mandeep Singh da Vehra Gali No-2, Fauji Colony, Near Railway Line, Sherpur, PS-Moti Nagar, Ludhiana age 50 yrs 814621807 states that I am resident of above said address and works as hosiery I have 2 daughters Pinki Gupta and Rakhi Gupta both are married and 2 sons Akash Kumar and Ravi Kumar, my daughter Panki Gupta got married in 2014 with Sonu Kumar s/o Kailash Nath in H No 224, Gali No-3, Near Shiv Mandir, Ram Nagar, Bhamian Kalan she has 2 children a girl Priti and son Aditya after marriage my daughter was continuously harassed by my son in law Sonu, few days ago my daughter told me that her husband has illicit relations with some lady, regarding this my daughter 2 months ago send whatsapp photographs of my son in law with that lady, hence Sonu Kumar use to harass my daughter, many times panchayat has taken place we also tried to convince Sonu Kumar but he never improved. Once in Mundian chowki our matter went there and compromise was effected there, at 10.30 my daughter talked with me that due to involvement with lady he is saying me to leave and is also fighting with me and my devar Arun Kumar is also saying me to do this, I told Pinki that I will come after doing my duty at 11.30 my Damad told me to take my daughter, I told him that I will come after completing my duty, after some time Arun Kumar also told me to take my daughter, I again told him that I will come after completing my duty, at 3 pm a call came from police station that my daughter has committed suicide and his dead body is lying in cancer hospital I inquired with my family regarding this, we find that my daughter Pinki has committed suicide due to harassment of my son in law Sonu Kumar and his brother Arun Kumar she has committed suicide by hanging herself,

necessary action may kindly be taken against them. This statement has been given by me in the presence of my son Akash Kumar which is correct Sd/- Lalan Parshad”

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 16.04.2024. Learned counsel has further argued that the offence under Section 306 of IPC is not made out against the petitioner in the factual matrix of the *lis*. To buttress his arguments, learned counsel has relied upon the dicta of the judgment of the Hon’ble Supreme Court in **Criminal Appeal No.3578 of 2023** titled as ***Mohit Singhal & Anr. Vs. The State of Uttarkhand & Ors., (Neutral Citation No.2023 INSC1035)***; 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. 10. In the present case, taking the complaint of the third respondent and the contents of the suicide note as correct, it is impossible to conclude that the appellants instigated the deceased to commit suicide by demanding the payment of the amount borrowed by the third respondent from her husband by using abusive language and by assaulting him by a belt for that purpose. The

said incident allegedly happened more than two weeks before the date of suicide. There is no allegation that any act was done by the appellants in the close proximity to the date of suicide. By no stretch of the imagination, the alleged acts of the appellants can amount to instigation to commit suicide.....”

In this view of the matter, learned counsel has prayed for grant of regular bail.

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. Learned State counsel seeks to place on record custody certificate dated 18.08.2024 in Court, which is taken on record.

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

6. The petitioner was arrested on 16.04.2024 whereinafter investigation was carried out and challan stands presented on 13.06.2024. Total 08 prosecution witnesses have been cited. It is not in dispute that the trial has not yet begun. The rival contention of learned counsel for the parties; as to whether offence under Section 306 of IPC is made out in the factual matrix of the *lis*; 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 custody certificate dated 18.08.2024 filed by learned State counsel, the petitioner has already suffered incarceration for a period of more than 04 months and 01 days & 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 case.

7. In view of above, the present 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 cellphone number without prior permission of the trial Court/Illaq 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.

(SUMEET GOEL)
JUDGE

August 20, 2024
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No