

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

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CRM-M-42054-2023 (O&M)
Date of decision: 13.02.2024

Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. K. B. S. Mann, Advocate
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 62 dated 24.03.2023, registered under Section 306, 506 and 34 of IPC at Police Station Lambi, District Sri Muktsar Sahib.
2. Brief facts of the case relevant for the purpose of the disposal of the present petition are that the aforementioned FIR was registered on the basis of a statement recorded by the complainant Satpal Singh on 24.03.2023 alleging therein that his son Gurdeep Singh was married to Khushpreet Kaur 8 years back. His son used to treat co-accused Kulwant Singh alias Bhundi of his village like his brother. The said Kulwant Singh also used to visit their

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house. On 17.03.2023, co-accused Kulwant Singh visited his house and forced Khushpreet Kaur to have physical relations with him. She narrated about this incident to the family members. The complainant had taken up the matter in the village panchayat. The accused Kulwant Singh instead of apologizing for his conduct, rather started proclaiming that the children of Khushpreet Kaur were actually born out of his loins and also that he would take Khushpreet Kaur to his house. The present petitioner, who is cousin brother of co-accused Kulwant Singh, also stated that they would rehabilitate Khushpreet Kaur in their house. The petitioner and co-accused Kulwant Singh then hatched a conspiracy and by inflicting injuries on themselves, they got themselves admitted in hospital with an intention to falsely implicate the family of the complainant. However the matter was got compromised. The complainant further alleged that on 23.03.2023, the mother and brother of co-accused Kulwant Singh came to their house and again started threatening that they would rehabilitate Khushpreet Kaur in their house. He alleged that that Khushpreet Kaur got so much demoralized that sometime thereafter when she was alone in her house, she committed suicide by hanging herself with ceiling fan. On the basis of this complaint, FIR was registered. Investigation proceedings were initiated. Inquest proceedings and post-mortem examination of the dead body of the victim was conducted. The petitioner and co-accused Kulwant Singh, Kulvinder Singh and Manjeet Kaur were arrested. The accused Kulwinder Singh and Manjit Kaur have been extended benefit of bail. After completion of necessary investigation and usual formalities, *challan* under section 173 of Cr.P.C. was presented in the Court and presently the

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petitioner along with the co-accused is facing trial for Commission of the aforementioned offenses.

3. The present petition has been filed by the petitioner on the grounds and it is argued by his counsel that he has been falsely implicated in this case. He is in custody since 24.03.2023. On the day of occurrence, he was not the person who had gone to the house of the victim. There was nothing on record to suggest that he had abetted the commission of act of suicide by the victim. In fact being cousin brother of the co-accused Kulwant Singh, he had accompanied him at that time when panchayat was convened. Accused Kulwinder Singh had already been extended benefit of bail. He was also in custody since 24.03.2023. Investigation had since been completed. Trial is likely to take time. No useful purpose is going to be served by keeping him in custody anymore. With these broad submissions, it is argued that the petitioner deserves to be released on bail.

4. Status report has been filed by the respondent-State, as per which, the petitioner had proclaimed that they would rehabilitate the victim in their house and had got inflicted injuries on himself to involve the family of the complainant falsely in this case. Due to the act and conduct of the co-accused and the petitioner, the victim was so much demoralized that she had ended her life by hanging herself. The allegations against the petitioner are quite serious. The material witnesses are yet to be examined. There are chances of petitioner's intimidating the witnesses. Therefore, it is argued that the present petition is liable to be dismissed.

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

6. As per the allegations, the present petitioner along with the co-accused had abetted the suicide by the daughter-in-law of the complainant by proclaiming that they would rehabilitate her in their house. It is also alleged that co-accused Kulwant Singh had forced the daughter-in-law of the complainant to maintain illicit relationship with him and had even proclaimed that the children of the victim were born out of his loins. The petitioner is facing trial for commission of offences punishable under Sections 306 and 506 of IPC. In order to bring a case within the provisions of Section 306 of IPC, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by an act of instigation or by doing certain act to facilitate the commission of suicide. It is well settled proposition of law that mere harassment without any positive action on the part of the accused proximate to the time of occurrence which led to suicide would not amount to an offence under Section 306 of IPC. Reference in this regard can be made to ***Amalendu Pal @ Jhantu vs. State of West Bengal 2010 (1) SCC 707.*** Abetment of suicide is punishable under section 306 of IPC, whereas abetment is defined under section 107 of IPC, as per which, a person abets of doing of a thing or instigates any person to do that thing or engages with one or more other 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 insights by any act or illegal

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omission, the doing of that thing. For the sake of argument, if it may be taken that the present petitioner had told that he would settle the victim in the house of co-accused Kulwant Singh, it cannot be *prima facie* stated and it is debatable that by saying so, he had instigated or had aided the commission of suicide. Learned State counsel has not been able to satisfy as to in which manner the commission of suicide has been instigated or aided by the present petitioner. No doubt, the victim might be feeling harassed or mentally disturbed with the allegations as levelled upon her and the pressure exerted upon her. However, the requisite *mens rea* to commit the offence of abetment to suicide on the part of the petitioner is not shown to have been made out *prime facie*. Abetment certainly involves a mental process of instigating a person or intentionally aiding in doing of a thing as discussed above and without there being a positive act on the part of the accused to instigate or aid in committing of suicide, it cannot be stated that there is the offence of abetment to suicide. The petitioner is in custody since 24.03.2023. Charges against him have been framed. However, trial is likely to take time. No useful purpose is going to be served by keeping him in custody any more. It is well settled proposition of law that bail is the rule and jail is an exception. Keeping in view the discussion as made above to the effect that it is debatable that the ingredients for commission of offence punishable under Section 306 of IPC have been made out as against the present petitioner or not, the period of his incarceration and the entire attendant facts and circumstances of the case, I am of the considered opinion that the petition deserves to be allowed.

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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.

13.02.2024

Waseem Ansari

(MANISHA BATRA)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>