

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M No.46293 of 2023
Date of Decision: 05.03.2024

Gurpreet Singh ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Vishva Bahl, Advocate,
for the petitioner.

Mr. Mandeep Singh Samra, AAG, Punjab.

Mr. Inder Preet Singh, Advocate,
for the complainant.

MANISHA BATRA, J.(Oral)

1. The present petition has been filed under Section 439 of Cr.P.C. seeking regular bail in FIR mentioned below:-

FIR No.	Dated	Police Station	Sections
87	12.08.2022	Dehlon, Ludhiana	306 of IPC

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on the basis of statement recorded by the complainant Sukhwinder Singh on 12.08.2022 alleging that Sarabjeet Kaur who was his youngest sister was married to the petitioner about five years back. The petitioner was indulged in the vices of drinking liquor and under the influence of the same, he used to harass the sister of the complainant. The victim was subjected to continuous physical assaults and harassment and used to remain in a state of sadness. There were continuous quarrels between the victim and the

Neutral Citation No.2024:PHHC:031741

petitioner and the complainant had even witnessed the petitioner while telling the victim to go and die anywhere she wished and he could live his life without her. He alleged that on 10.08.2022, it was the festival of Rakhi. The complainant made attempt to contact the victim but her phone was going switched off. He along with his father proceeded to her matrimonial house at about 2 PM and on reaching there, they found her dead body to be hanging from the ceiling fan with the help of a rope. The petitioner had met them outside the house while going on a motorcycle and even on being called, he did not stop the vehicle and had fled away. The inquest proceedings and postmortem examination of the dead body was conducted and the cause of death was opined as asphyxia due to hanging. The statement of the witnesses were recorded. The petitioner was apprehended and arrested on 15.05.2023. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P..C. was presented in the Court and presently, he is facing trial for commission of offence punishable under Section 306 of IPC.

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. There is delay of two days in lodging of the FIR. He was married with the deceased from the past five years but no complaint was ever filed by her or her family members against the petitioner. There was nothing on record to suggest that he had abetted the suicide by the victim. It was found to be a case of suicidal death and no poison was detected in the viscera contents of the dead body as per the Chemical Examiner report. The petitioner had himself surrendered in the Court after withdrawing his

Neutral Citation No.2024:PHHC:031741

application for grant of anticipatory bail. The trial was likely to take time. Therefore, it is argued that the petition deserves to be allowed.

4. Reply has been filed by the complainant who is brother of the victim alleging therein that it was a case of dowry death. On demand of the petitioner himself who was working in a gold shop, the family of the victim had handed over a sum of Rs.1.5 lacs to him at the time of marriage for the purpose of preparing gold ornaments which were entrusted to him only. He used to drink liquor and take intoxicants on daily basis. He used to harass the victim on account of bringing insufficient dowry and in the month of September 2020, he had raised demand of a sum of Rs.5 lacs from the family of the victim for starting business of gold shop himself and under his pressure, the family of the complainant had given an amount of Rs.1 lac in cash to him. It is also submitted that the family of the petitioner had purchased a house and again raised demand of Rs.50,000/- from the victim and on her refusal to do so, she was thrown from her matrimonial house in August 2020 and it was later on, that the petitioner had taken her back. It is also submitted that it was a case of dowry death. The allegations against the petitioner are serious in nature. It was a case of homicidal death as the main gate of the house was found locked when on 10.08.2022 the complainant along with his father had reached there and it was only after jumping from the wall and going inside found that the victim was found lying dead. Infact she had been strangulated. It is argued that in view of the gravity of the allegations as levelled against the petitioner, he does not deserve to be given benefit of bail.

5. Respondent No.1-State has filed status report as per which,

Neutral Citation No.2024:PHHC:031741

there are serious allegations against the petitioner. He subjected the victim to cruelty and abetted suicide by her. The statements of witnesses prove that he used to quarrel with the victim regularly under the influence of alcohol. Therefore, it is argued that the petition does not deserve to be allowed.

6. I have heard learned counsel for the parties at considerable length and have gone through the record carefully.

7. The petitioner has been booked for and is facing trial for commission of offence punishable under Section 306 of IPC though in the reply as submitted by the complainant, it is alleged that infact it was a case of dowry death as the petitioner used to raise demand of money and harassed the victim on that count. However, a perusal of the FIR reveal that no such allegation had been levelled. There is also no material on record to show that the complainant had recorded any supplementary statement alleging that the victim had died a dowry death. Therefore, prima facie, it cannot be assumed to be a case of dowry death. The petitioner is in custody since 15.05.2023. The trial has commenced and is likely to take time. In order to bring a case within the provisions of Section 306 IPC, undoubtedly, 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 act of instigation and doing certain acts to facilitate the commission of suicide. The prosecution must show a proof of direct or indirect act of incitement to the commission of suicide by the accused. Allegation of harassment of the deceased by the accused does not suffice in the absence of any positive action on the part of the accused proximate to the time of occurrence which led to suicide, offence under Section 306 of IPC would not

Neutral Citation No.2024:PHHC:031741

be considered to have been committed.

8. It is also well settled proposition of law that to prove the offence of abetment, which is defined under Section 107 of IPC, it must be the state of mind of the accused to commit a particular crime must also be visible so as to determine the culpability of his action, meaning thereby that there must be some *mens rea* and some material on record to establish that he or she had a guilty mind and in furtherance of that state of mind, the suicide by the victim was abetted. Learned counsel for the petitioner has relied upon *Aranb Manoranjan Goswami vs. State of Maharashtra and others : 2020 SCC Online SC 964*, wherein it was observed by Hon'ble Supreme Court that in order to bring out an offence under Section 306 of IPC, specific abetment as contemplated under Section 107 of IPC on the part of the accused with an intention to bring out the suicide of the person concerned as a result of that abetment is required. It was also observed that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 of IPC.

9. In the present case, the allegations as levelled in the FIR were that the present petitioner was habitual of consuming liquor and used to harass the victim under the influence of the same and there was no allegation that she had been subjected to cruelty on account of demand of dowry. In the reply filed by the complainant, though allegations have been made that the victim had died on being harassed because of demands as raised by the petitioner but as discussed above, in the absence of any such allegation being levelled in the FIR, it is difficult to assume at this stage that the victim

Neutral Citation No.2024:PHHC:031741

had died a dowry death. The petitioner is in custody since 15.05.2023. The trial is likely to take time. It is a debatable question as to whether he had the requisite mens rea and had abetted the suicide by the victim. It is on the basis of evidence to be adduced during trial, that the trial Court would be able to come to a conclusion as to whether there was any proximity in the suicidal death of the victim and any particular action on the part of the petitioner complaining her to commit suicide. In the discussion as made above and taking overall view of the circumstances of the case but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

05.03.2024
manju

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No