

297 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.45721 of 2023
Date of Decision: 21st March, 2024

Lakhwinder Singh @ Lakhu ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Ms. Ruchika Sabherwal, DAG, Punjab.

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.	Police Station	Sections
28	City Samana, District Patiala	306 of Indian Penal Code, 1860 (for short 'IPC')

2. Brief facts relevant for the purpose of disposal of this petition are that the aforementioned FIR was registered on 10.04.2023 on the basis of an information received at Police Station from Civil Hospital, Samana regarding dead body of the victim Shinderpal Kaur lying in the mortuary of the hospital. On arriving at the hospital, Smt. Manjit Kaur mother of the victim recorded her statement to the effect that her daughter was married with the present petitioner in the year 2018. A girl child was born to her. The petitioner used to mostly stay away from his home.

Whenever he returned, he used to quarrel with the victim. Several times, she was sent to her parental home and was taken away in her matrimonial home with the intervention of mediators or other respectables. The behaviour of the petitioner with the victim kept on worsening and they had come to know that he had performed marriage with one Suman Rani. She alleged that on 09.04.2023, the victim had contacted the complainant and had given the details of the torture faced from the petitioner on the instigation of Suman Rani and also disclosed about the complicity of his family members in mistreating her. She had also disclosed that all of them were making her life miserable. On the same night, the complainant received information about her death.

3. After registration of FIR, investigation proceedings were initiated. Inquest proceedings and postmortem examination of the dead body was conducted. As per the medical examination report, the cause of death was consumption of some poisonous substance by the victim. The petitioner was arrested on 12.04.2023. The co-accused Palo, mother-in-law of the victim had been arrested on 10.04.2023. The co-accused Harvinder Singh @ Bunt was arrested on 20.07.2023. After completion of necessary investigation and usual formalities, challan under Section 173 Cr.P.C. was presented against the accused and presently, the petitioner along with the co-accused is facing trial for commission of offence punishable under Section 306 of IPC.

4. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 12.04.2023. His daughter is aged about two years and there is none to take care of her. The

permanent abode. There are no chances of his fleeing from justice. The ingredients for commission of offence under Section 306 of IPC have not been made out against him at all. Therefore, it is argued that the petition deserves to be allowed.

5. Status report has been filed by the respondent-State. Learned State counsel has argued that there were specific allegations against the petitioner that he had been misbehaving with the victim from quite sometime and had made her life so miserable that the victim was compelled to end her life by consuming a poisonous substance. The death of the victim was proximate cause of the harassment meted out at the hands of the petitioner and, therefore, it is argued that he does not deserve to be given concession of bail.

6. I have heard learned counsel for the petitioner and learned State counsel and have gone through the record.

7. The petitioner along with his family members i.e. co-accused is alleged to have abetted the death of the victim which had occurred due to consumption of some poisonous substance as per the chemical examination report. The allegations against him are that he used to quarrel with the victim and had even performed marriage with one Suman Rani and she was being harassed by him and was left to her parental home several times. The question that arises for consideration is as to whether on the basis of these allegations, it can be stated that a case for commission of offence under Section 306 of IPC is made out. The well settled proposition of law is that in cases of abetment of suicide, the prosecution must show a proof of direct or indirect act of incitement to the commission of suicide by the accused.

unless there is some material on record to show that some particular action on the part of the accused had compelled the victim to commit suicide and her suicide was proximate to such offending action. It must be shown that the accused played some active role by an act of instigation or by doing certain acts to facilitate the commission of suicide. 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 which 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.

8. In view of the above discussed proposition of law, I am inclined to hold that though there are allegations that the petitioner had performed second marriage and used to harass the victim but from the allegations in the FIR, the proximate link between the cause and suicide appears to be weak.

There is no specific reference of any particular overt act of the petitioner

which could be cause for suicide. Nor it is revealed that there was any

provocation on the side of the petitioner for the deceased to commit suicide. The petitioner is in custody since 12.04.2023. His custodial interrogation is not required. The trial is likely to take time as so far not a single witness has been examined. His further detention would not serve any useful purpose. Keeping in view the discussion as made above, I am persuaded to hold that petitioner deserves to be released on bail, Hence, the petition is allowed, the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

9. It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
10. Since the main petition has been allowed, pending application if any is rendered infructuous.

21st March, 2024
Parveen Sharma

(MANISHA BATRA)
JUDGE

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