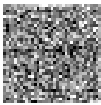


2024:PHHC:165508



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRM-M-48043-2024
DECIDED ON: 25.09.2024

RAMANDEEP KAUR

.... PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Simble, Advocate for the petitioner.
Mr. Jaspal Singh Guru, AAG, Punjab.
Mr. Surinder Garg, Advocate for the complainant.

SANDEEP MOUDGIL, J

1. **Relief sought**

This petition has been filed under Section 482 of Bhartiya Nagrik Suraksha Sanhita, 2023, for grant of anticipatory bail to the petitioner in the case arising out of FIR No.154 dated 24.07.2024, (Annexure P-1) under Section 108 of Bhartiya Nyaya Sanhita, 2023, registered at Police Station City Kotkapura, District Faridkot.

2. The contents of the FIR read as under:-

“Statement of Balwinder Singh son of Jangir Station Bariwala, District Sri Muktsar Sahib, aged about 62 years, Mobile No. 94172-75016. Stated that I am a resident of above said address and I am 11th class pass and doing the work of Electrician. My shop is at Village Bari Wala. I got married in the year of 1986 with Manjeet Kaur daughter of

Balbir Singh, resident of Shri Muktsar Sahib, Surgapuri Road, Kot Kapura. We have three children, elder was Gurwinder Singh @ Ginny, younger to him is Kamaljeet Kaur and Satnam Singh, all three children are married. My elder son Gurwinder Singh got married in the year of 2009 with Ramandeep Kaur daughter of Nazar Singh, resident of Village Buttar Kalan, Police Station: Badhani Kalan, District Moga. He had two children, elder son Watandeep aged of 13 years and younger son Gurpreet Singh is of 11 years. My daughter Kamaljeet Kaur got married with Elies, resident of Cyprus and living in Cyprus. My son, Satnam Singh got married with Nirmal Kaur, resident of Kotpapura. My son Gurwinder Singh was doing work of Electrician along with me at village Bari wala, who passed gth class. Gurwinder Singh was married and got a job in the year of 2015 in a company at Hisar, Haryana. After that he went to Gujarat. Since 2021 Gurwinder Singh was doing his job with Dinesh Chandra R. Aggarwal Infra Coach Private Limited, Ley India, who, along with his wife Ramandeep Kaur and son Gurpreet Singh was residing on rent in the house of Satish Kumar son of Sohan Lal, resident of Sikhan Wala Road, Near Mehar Flour Mill, Kotkapura since last 3-years. The elder son of Gurwinder Singh has been studying at Navodaya School, Kauni, District Faridkot, who lives in hostel. After two months of the marriage of Gurwinder Singh and Ramandeep Kaur a rift arose between them and they started to quarrel with each other. An application was given by Ramandeep Kaur to Women Cell, Moga, where matter has been resolved between the parties. During this period the panchayati Compromised arrived 2-3 times. Due to this reason, Gurwinder Singh came to Kotkapur from his village Bari Wala. Whenever Gurwinder Singh was come to his village from Kotkapura after his job, then the quarrel took place between both husband and wife. Now Gurwinder Singh had come to Kotkapura for last 10 days for taking treatment of stone disease. Ramandeep Kaur was always used to

quarrel 20. 07.2024, with Gurwinder Singh. On Gurwinder Singh called his friend Mukesh Kumar son of Roop Chand, resident of bari Wala to Kotkapura. Then Muukesh Kumar along with Shamir son of Tejpal resident of Bari Wala went to Kotkapura, where they talked with Ramandeep Kaur and Gurwinder Singh and returned to Bari Wala, who told me that dispute of Ramandeep Kaur is on higher side with Gurwinder Singh. Yesterday on 22.07.2024 the parents of Ramandeep Kaur had to come to Kotkapura, but they did not come. On 21.07.2024 my son Gurwinder Singh came to village Bari Wala by taking his son Gurpreet Singh, who told me all the matter and said that Ramandeep Kaur harasses a lot to him and his son Gurpreet Singh and Ramandeep Kaur's mother Prem Jit Kaur wife of Nazar Singh, her brother Rachhpal Singh son of Nazar Singh and sister-in-law Harpreet Kaur wife of Rachhpal, residents of Village Butter Kalan, were helping to her. I told my son Gurwinder Singh that we will talk to them. On 22.07.2024 Gurwinder Singh along with his son Gurpreet Singh came to Kotkapura, then the sister-in-law of Ramandeep Kaur went to village Buttar Kalan by taking Ramandeep Kaur along. Today, on 24.07.2024 Gurwinder Singh's neighbour called from the phone of Ramandeep Kaur on the phone of my wife that Gurwinder Singh hanged himself by tying Chunni on the ceiling fan. I along with my wife and relatives reached at Kotkapura. I saw that the dead body of my son is lying on the bed. Then I enquired on my own and came to know that Gurwinder Singh returned home by dropping his son Gurpreet Singh to his school. When Gurpreet Singh returned to home from the school at about 1:15 P.M. then he saw that Gurwinder Singh is hanging . with the ceiling fan. He raised hue and cry and the adjoining people gathered on the spot and they put down Gurwinder Singh and gave him first aid to save him. But my son could not survive. My son Gurwinder Singh committed suicide by hanging himself with the ceiling fan by getting harassed from his wife Ramandeep Kaur wife

of Gurwinder Singh, resident of Bari Wala, Police Station Bari Wala, District Sri Muktsar Sahib, her mother Premjit Kaur wife of Nazar Singh, her brother Rachhpal Singh son of Nazar Singh and her sister-in-law Harpreet Kaur wife of Rachhpal Singh, residents of Village Butter Kalan. The cause of grudge is that Ramandeep Kaur was levelling allegations of illicit relations of my son with other women. While I was in a trauma I could not record my statement. Now I have recorded my statement to you, you read out, it is correct.”

3. **Contentions**

On behalf of the petitioner:

It is contended by the learned counsel for the petitioner that the petitioner has been falsely roped in the present after cooking up a false story with an intention to deprive the minor children/legal heirs of the deceased husband of the petitioner from the inheritance in the ancestral and coparcenary property in the clever move of false implication of the petitioner.

It is further contended that perusal of FIR would suggest that no case *prima facie* is made out against the petitioner and the allegations are mere hear say assertions because before registration of FIR, complainant was not on visiting terms to the house of the petitioner nor deceased and children were in talking terms with the complainant.

As such, no offence of abetment as alleged is made out against the petitioner because there must be provocation or instigation to commit suicide or reason to abetment to commit suicide or to compel a person to take such a drastic step which is absolutely missing in the present case and accordingly, the petitioner is liable to be granted anticipatory bail in the present case.

On behalf of the respondent-State and complainant

On the asking of the Court, Mr. Jaspal Singh Guru, Assistant Advocate General, Punjab, who is present in Court accepts notice on behalf of the State of Punjab. Mr. Surinder Garg, Advocate, who is present in Court accepts notice on behalf of the complainant.

It is submitted by the learned counsel for the State and the learned counsel for the complainant that the allegations against the petitioner are very specific and serious in nature. It is alleged by the complainant that the relations between the deceased – Gurwinder Singh were not cordial with the petitioner (the wife) and Panchayati Compromise had taken place 2/3 times. Further, the deceased's son had narrated the stern relationship between the deceased and the petitioner and also told that petitioner has been harassing the deceased a lot. Therefore a clear cut case of abetment to suicide is made out against the petitioner and accordingly, the present petition is liable to be dismissed.

4. **Analysis and Conclusion**

Before embarking upon the merits of the case, it deems appropriate to notice the law laid down in the statute which is reproduced herein below:-

“Section 108- Abetment to suicide.- If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

Section 108 BNS directs that whoever abets the commission of suicide, shall be punished with imprisonment for a term of not less than 10

years, Therefore, the soul of section 108 is abetment which is explained under section 45 BNS which reads as follows:-

“Abetment of a thing- A person abets the doing of the thing, who-

First- Instigate any person to do that thing; or

Secondly- Engages with one or more other person or 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 aids, by any act or illegal omission, the doing of that thing.

Explanation 1-. A person who, by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Explanation 2- Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.”

Section 45 of BNS, clearly mandates that if the accused intentionally aids any act against the victim which leads to the ingredients of Section 108, then it would apply. Therefore, the crux of section 45 is intention of the accused should be to aid or instigate or abet the deceased to commit suicide.

Be that as it may, after considering the submissions made herein above and on perusal of the assertions made in the petition as well, this court is of the firm view that custodial interrogation of the petitioner is required

particularly in view of the fact that serious overt act has been attributed to the petitioner.

Moreover, it is settled proposition of law that power exercisable under Section 482 BNSS, is somewhat extraordinary in character and it is to be exercised in exceptional cases. In State of ***Andhra Pradesh vs. Vimal Krishna Kundu, AIR 1997 SC 3589***, Apex Court has held that in case of well orchestrated conspiracy, if the accused is equipped with anticipatory bail order before interrogated by police, would greatly harm the investigation and would impede the prospects of unearthing all the ramification involved in the conspiracy. Similarly, in ***Ram Govind Upadhyay versus Sudarshan Singh, (2002) 3 SCC 598***, it has been observed as under:

“3. Grant of bail though being a discretionary order — but, however, calls for exercise of such a discretion in a judicious manner and not as a matter of course. Order for bail bereft of any cogent reason cannot be sustained. Needless to record, however, that the grant of bail is dependent upon the contextual facts of the matter being dealt with by the court and facts, however, do always vary from case to case. While placement of the accused in the society, though may be considered but that by itself cannot be a guiding factor in the matter of grant of bail and the same should and ought always to be coupled with other circumstances warranting the grant of bail. The nature of the offence is one of the basic considerations for the grant of bail — more heinous is the crime, the greater is the chance of rejection of the bail, though, however, dependent on the factual matrix of the matter.”

In view of the seriousness of the allegations, the custodial interrogation of the petitioner is certainly required. Therefore, I find no merit in the petition and the same is hereby dismissed.

However, it is made clear that the observations in this order are only for the purposes of deciding this bail application and the trial Court is free to adjudicate upon the matter in accordance with law.

25.09.2024
Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

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