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CRM-M-49061-2024 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-49061-2024 (O&M)  
Date of Decision: 04.10.2024

SURAJ

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Shakinderpal Singh, Advocate and  
Mr. M.S. Bhatti, Advocate for the petitioner.

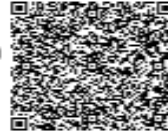
Mr. Anup Singh, AAG, Punjab.

...

SUMEET GOEL, J. (Oral)

1. Present petition has been filed under Section 483 BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.219 dated 08.07.2024, registered for the offence punishable under Section 108 of BNS, 2023 at Police Station Dera Bassi, District SAS Nagar, Mohali.
2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

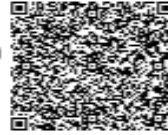
*“Copy of the Statement by Santosh Kumar Son of Late Sri Ram Krishan Resident of Village Hardeni, Police Station Khudaganj, Tehsil Sadar Sahjahapur (Sajanpur), District Sahjahapur (Sajanpur) Uttar Pradesh presently Tenant of House owner Binder Singh alias Suresh Amardeep Colony Opposite Government Tubal Isapur Road Derabassi Tehsil and PS Derabassi, District SAS Nagar, aged about 28 years, Mobile No.95929-39496 (santoshkumar9592939496@gmail.com) stated that I am a resident of the above address and I am a driver. I have five sisters. The youngest sister, Sangeeta Rani, aged about 28 years, was firstly married in year 2012/2013 with Labha S/o Ram Chander R/o Lohara Mohalla Dera Bassi backside. Vishkarma Mandir Sadi year 2012/2013. After which, my sister Sangeeta Rani has a boy Rishi age about 10 years. In the year 2014, my sister Sangeeta got married to Suraj son Gobind Giri, a resident of Amardeep Nagar Colony, near Shiv Mandir Derabassi. From*



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*which my sister Sangeeta Rani has three children, two daughters Deepika and Meenaksi and a son Shiv. My brother-in-law Suraj does not do any work. My sister Sangeeta Rani told me several times that your brother-in-law Suraj starts drinking alcohol every morning, when I stop him from drinking alcohol, he beats me and abuses me, and does not give me money for household expenses. We have explained many times to my brother-in-law Suraj who used to agree at that time and after we left he used to drink alcohol again and beat my sister Sangeeta Rani. My brother-in-law Suraj used to annoy my sister Sangeeta Rani a lot. Yesterday on 07.07.2024, my brother-in-law Suraj firstly beat my sister Sangeeta Rani and abused her, due to which my sister Sangeeta Rani got harassed by her husband Suraj. Then I later came to know that my sister Sangeeta Rani was upset with her husband Suraj and yesterday on 07.07.2024 At 08.20 PM she ate something poisonous, who had been taken to Sub Divisional hospital, Dera Bassi by my brother-in-law Suraj. Where the doctor checked my sister Sangeeta Rani and declared her dead. I am very sure that my sister Sangeeta Rani was upset with her husband Suraj and ate something poisonous due to which she died. My brother in law Suraj is responsible for the death of my sister Sangeeta Rani. My sister Sangeeta Rani's body is lying in the mortuary of Sub Divisional Hospital Derabassi. Legal action should be taken against my brother-in-law Suraj. I was coming with my mother Radha Rani and sister and family members to inform you. you have met. I have recorded my statement, read it. It is correct, Sd/- Santosh Kumar Confirmed Statement RTI Radha Rani Verification Sd- Kewal Kumar ASI Police Station Derabassi Date 8.07.2024.”*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 08.07.2024. Learned counsel for the petitioner has submitted that the deceased had committed suicide on account of routine matrimonial/domestic wrangling. Learned counsel for the petitioner has further submitted that from the material brought forth by the prosecution during the course of investigation, the offence of Section 306 of IPC is not made out against the petitioner. The provision of Section 306 of IPC when *juxtapose* with the provision of Section 108 of BNS, 2023 would reflect that the essence of both the provisions are on similar lines. Learned counsel, in order to buttress his argument, has relied upon the dicta of the judgment of the Hon’ble Supreme Court in the case of ***Mohit Singhal & another vs. The***

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*State of Uttarakhand & others, reported as 2023 INSC 1035, relevant whereof reads as under:-*

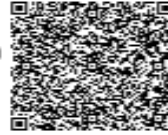
*“9. In the facts of the case, secondly and thirdly in Section 107, will have no application. Hence, the question is whether the appellants instigated the deceased to commit suicide. To attract the first clause, there must be instigation in some form on the part of the accused to cause the deceased to 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.”*

Thus, regular bail is prayed for.

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.

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

6. The petitioner was arrested on 08.07.2024 whereinafter investigation was carried out & challan was presented on 04.09.2024. Total 14 prosecution witnesses have been cited and culmination of the trial will, but of course, take its own time. The rival contention of the learned counsel for the parties; as to whether the offence of Section 306 of IPC is made out against the present petitioner or not 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 the custody certificate

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dated 03.10.2024 filed by the learned State counsel, the petitioner has suffered incarceration for about 02 months and 24 days. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant 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 cell-phone number without prior permission of the trial Court/Illaq Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.



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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.

04.10.2024  
Jasmine Kaur

(SUMEET GOEL)  
JUDGE

|                           |     |    |
|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |