

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

305

CRM-M-52146-2023 (O&M)
Date of decision: 25.01.2024

Mohammad Sami ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Madhur Singh, Advocate
for the petitioner.

Mr. Arjun Lakhanpal, Addl. A.G., Haryana.

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. 85 dated 12.04.2023, registered under Section 305 of IPC and Section 12 of POCSO Act, 2012 at Police Station Ismailabad, Kurukshetra.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 12.04.2023, on receipt of an information regarding death of one Simran by hanging herself in her house, a police party reached there, wherein the dead body of the victim was found lying. Complainant Rajni, mother of the victim, got recorded her statement alleging therein that the victim was studying in 10th Class and used to have love interest with the petitioner, who was also studying in the same school. They used to have

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conversation through cell phones and even otherwise. They also used to meet with each other covertly. She had come to know about their relationship and had tried to prevail good sense upon the petitioner. However, her daughter and the petitioner were still willing to marry with each other. She alleged that on 11.04.2023, the petitioner had called her daughter behind the *Mandi*. On finding her missing, she started making search for her and found her along with the petitioner. She called the family of the petitioner at the spot. The victim started insisting that she would perform marriage with the petitioner only but the petitioner and his family members straightaway refused to do so and on that, after making her daughter understand, she brought her back home. She further alleged that on 12.04.2023, while she was busy in her domestic chores, the victim hanged herself with the cemented beam of the veranda with the help of a *dupatta* and had died. While alleging that her daughter had committed suicide on account of refusal on the part of the petitioner to perform marriage with her, she prayed for taking action against the culprits. Initially, a case under Section 306 of IPC was registered. Inquest proceedings and postmortem examination of the victim were conducted. During the course of investigation, offence under Section 306 of IPC was deleted and offence under Section 305 of IPC was added. The petitioner was arrested on 13.04.2023. After completion of necessary investigation and usual formalities, challan was presented in the Court and presently, the petitioner is facing trial for commission of offences punishable under Section 305 of IPC and Section 12 of POCSO Act. He had moved an application for grant of regular bail before the Additional Sessions Judge (Fast Track Special Court), Kurukshetra but the same was dismissed, vide order dated 11.08.2023.

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3. The present petition has been filed by the petitioner on the grounds and his counsel has argued that he has been falsely implicated in this case. He is in custody since long. Investigation has since been completed. Trial is likely to take time. No suicide note had been left by the victim levelling allegation against the petitioner. Rather, it was the family of the victim, who had exerted pressure upon the victim and on account of the harassment and threats given by them that the victim had committed suicide. The ingredients for commission of subject offence had not been made out at all against the petitioner. Even if the allegations were taken to be true on the face of record, mere refusal to perform marriage with the victim by him did not amount to abet her suicide. With these broad submissions, it is prayed that the present petition deserves to be allowed.

4. The bail petition has been resisted by learned State counsel in terms of status report. Learned State counsel has vehemently argued that there are serious allegations against the petitioner. The complainant and other material witnesses are yet to be examined. There are chances of the petitioner's intimidating the witnesses. Therefore, he has argued that the present petition is liable to be dismissed.

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

6. As per the allegations, the petitioner and the victim were having an affair and used to meet each other frequently. It is also the version of the prosecution that the victim was very much willing to perform marriage with the petitioner but as on 11.04.2023, the petitioner and his family members had refused to do so. There is, however, no allegation that there was any cruelty or

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harassment on the part of the petitioner to the victim or he had played any active role, either directly or indirectly, in facilitating the commission of act of suicide by the victim. The only allegation that he had refused to perform marriage with her cannot be taken to mean that he had abetted her suicide. There can be stated to be no proximity between the suicide committed by the victim and refusal on the part of the petitioner to perform marriage with her. More so, there is nothing on record to show at this stage that he had instigated the victim to commit suicide or entered into any conspiracy with any other person to make the victim do so or had intentionally aided by any act or any illegal omission doing the act of suicide by the victim. As such, *prima facie* the essential ingredients of offence under Section 107 of IPC, which provides punishment for abetment of some act cannot be stated to have been even made out and in such circumstances, I am of the considered opinion that the petitioner deserves to be given benefit of regular bail.

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.

25.01.2024

(MANISHA BATRA)
JUDGE

Waseem Ansari

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No