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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : October 29, 2024

GAGAN SHARMA -APPELLANT

V/S

STATE OF PUNJAB AND ANOTHER -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gopal Singh Nahel, Advocate
for the appellant.

Mr. Pardeep Bajaj, D.A.G., Punjab.

Mr. Gaurav Goyal, Advocate
for the respondent No.2.

KULDEEP TIWARI, J. (ORAL)

- Through the instant appeal, the appellant assails the order dated 09.10.2024, whereby, the learned Additional Sessions Judge, Sangrur, has declined to grant him anticipatory bail, in FIR No.141 dated 18.11.2023, under Section 306 of the IPC (Section 3(1)(x), 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as the SC/ST Act), and, Section 305 of the IPC added subsequently), registered at P.S. Dirba, District Sangrur.
- Succinctly stated, the genesis of the present FIR is embodied in a statement made by one Jagsir Singh (hereinafter referred to as the 'complainant'). The allegations levelled in the present FIR are that, on 17.11.2023, the complainant, who was/is working as a teacher in a school,

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was on his duty. At about 03:10 p.m., one Yusaf Khan called the complainant on his mobile and informed that his son Jobanvir Singh has committed suicide by hanging himself. The dead body of Jobanvir Singh was dismounted and one suicide note was recovered from the dressing room. In the said suicide note, it was voiced that, on 16.11.2023, consequent upon a child becoming hit by complainant's son's scooter, many persons gathered at the spot, out of whom, one person gave 5-6 slaps to complainant's son. The complainant's son felt humiliated on account of him becoming slapped in front of general public and resultantly, he committed suicide. On enquiry, the complainant came to know that it was one Randhir Singh, who had slapped his son. During the course of investigation, the name of the appellant cropped up as one of the persons, who were present at the time of occurrence.

3. It would be apt to record here that, earlier also the appellant had accessed this Court, through his filing CRM-M-64480-2023, thereby seeking the concession of anticipatory bail in the present FIR, whereupon, a Co-ordinate Bench of this Court, vide order dated 21.12.2023, granted him interim bail and also directed him to join the investigation. However, during pendency of the petition (supra), the progressing investigation resulted in offence(s) punishable under the SC/ST Act becoming incorporated in the present FIR. Resultantly, on account of the supervening events, this Court, vide order dated 24.09.2024, relegated the appellant to the learned Sessions Court concerned for claiming the relief of anticipatory bail. Accordingly, the appellant approached the learned

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Session Court for claiming the relief of anticipatory bail, however, he remained unsuccessful, inasmuch as, anticipatory bail was declined to him, vide order dated 09.10.2024. In this way, the declining order dated 09.10.2024 has propelled the appellant to cast thereagainst the instant appeal and to claim the relief of anticipatory bail.

4. The learned counsel for the appellant, in his beseeching the relief of anticipatory bail for the appellant, submits that, the appellant's name neither reflects in the present FIR, nor in the alleged suicide note of the deceased Jobanvir Singh. In fact, the appellant has been arrayed as an accused, merely on the basis of statement of the deceased's father, and that too, after around 15 days of the alleged incident. Moreover, the appellant was not even present at the relevant time, at the alleged place of incident, rather he was on duty at that time.

5. The learned counsel for the appellant also submits that, in pursuance to the directions embodied in the interim bail order dated 21.12.2023, as rendered by a Co-ordinate Bench of this Court upon the petition (supra), the appellant had joined the investigation and cooperated with the investigating officer, therefore, his further custodial interrogation is not at all required. Finally, he submits that since the appellant's co/main accused Randhir Singh and Prince Cheema have already been granted the respective reliefs of regular bail and anticipatory bail by this Court, vide orders enclosed respectively in Annexure A-2 and A-6, therefore, the appellant also deserves the relief of anticipatory bail.

6. This Court has heard the submissions made by the learned

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counsels for the parties and also perused the entire record. To the considered mind of this Court, the issue “*whether the allegations voiced in the present FIR, attract qua the appellant, the provisions of 306 of the IPC or not*” is a moot question, which requires its becoming adjudicated by the learned trial Court concerned, at an appropriate stage.

7. Moreover, although the learned counsel for the appellant has argued that, even if the allegations levelled in the present FIR are taken on their face value, yet the ingredients of abetment, as adumbrated in Section 107 of the IPC are not made out, however, at this stage, this Court refrains from evincing any observation in this regard.

8. Apart from the above made discussion, since the main accused Randhir Singh has already been granted the concession of regular bail by this Court, as is evident from Annexure A-2, coupled with the fact that, appellant’s name has been incorporated in the present FIR after around 15 days of the occurrence, this Court believes that the impugned order dated 09.10.2024 warrants interference.

9. In summa, the instant appeal is **allowed** and the impugned order dated 09.10.2024 is set aside. The appellant is directed to join the investigation and to appear before the investigating agency, as and when called upon to do so. In the event of his arrest, he shall be admitted to interim bail on his furnishing bail bonds to the satisfaction of the Arresting/Investigating Officer. The appellant shall abide by the terms and conditions as envisaged under Section 482(2) of the B.N.S.S., 2023.

10. However, in case the appellant fails to join the investigation,



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as and when called by the investigating agency, the respondent-State shall be at liberty to institute an appropriate motion, thus seeking cancellation of bail granted by this Court.

October 29, 2024

devinder

(KULDEEP TIWARI)

JUDGE

Whether speaking/reasoned

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Yes/No

Whether Reportable

:

Yes/No