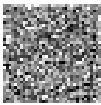


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2024:PHHC:142139



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53999-2024
DECIDED ON: 29.10.2024

MAMTA SHARMA

.....PETITIONER

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. G.S. Gopera, Advocate
for the petitioner.

Mr. B.S. Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. Relief sought

The jurisdiction of this Court has been invoked under Section 482 BNSS, 2023 for grant of anticipatory bail to the petitioner in FIR No.212, dated 11.04.2024, under Section 306 IPC, registered at Police Station Hansi City, District Hansi.

2. Prosecution story setup in the present case as per the version in the FIR as under:-

“Statement of Daljeet aged about 66 years (Mobile no. 8696303519), S/o Shri Kripa Ram, cast Pandit R/o Sewa Ram Colony Prem Nagar, near Line, Hansi, stated that I am resident of the above mentioned address and I used to ploy an auto riksha. I had 3 children, two girls and a son. My son Sagar was the youngest one who was unmarried

and both daughters are married. My son Sagar who used to do farming was having acquaintance with Mamta Sharma W/O Vinay Sharma R/O H. No. 2222 Block B Gali No. 60 Hanuman Kunj Sant Nagar Burari, they used to talk to each other and Mamta used to call my son Sagar to Delhi to meet her. Now about 2/3 months ago, Mamta is messaging my son from her mobile number 9871255341 and asking for money and was repeatedly asking him to die, due to which my son Sagar remained depressed and due to repeated harassment by Mamta, he came under pressure and on the night of 05.04.2024, under pressure, he in order to end his life, consumed some poison substance Yesterday i.e. 10.04.2024 and my son Sagar died. Due to repeated harassment and demand for money by Mamta, my son Sagar committed suicide. I have got recorded my statement which I have read and the same is correct. Legal action be taken against Mamta, I am presenting to you some messages of Mamta and a photo of my son Sagar and Mamta. SD/- Daljeet Attested Prem Kumar HC PS City Hansi Dt 11.04.2024”

3. **Contention**

On behalf of the petitioner

Learned counsel for the petitioner contends that there was no suicide note left by the deceased and there is an inordinate delay of seven days in lodging the instant FIR as the same has been registered on 11.04.2024 and the incident took place on 05.04.2024. He further contends that as per the prosecution story, the allegation against the petitioner are that he demanded money from the deceased, who allegedly borrowed the same from the present petitioner and it is well settled in law that if the borrowed money is demanded by the accused, the same cannot be construed as

harassment and instigation to commit suicide within the mischief of Sections 107 and 306 IPC. He has further argued that the ingredients of said Sections are not made out in the instant case as the petitioner has not abetted or instigated the deceased to commit the suicide. In support of his argument, he relied upon judgments of Hon'ble Supreme Court in "***Kishori Lal versus State of M.P.***", (2007) 10 SCC 797 and "***Analendu Pal alias Jhantu v. State of West Bengal***" (2010) 1 SCC 707.

On behalf of the State

Learned State Counsel appearing on advance notice, opposes the grant of anticipatory bail to the petitioner on the ground that the text messages and the instagram messages clearly show that the petitioner was constantly demanding money from the deceased, which resulted into his death.

4. **Analysis**

Be that as it may, after given a thoughtful consideration to the submissions as made, by the counsel for both the parties especially considering the fact that there is an inordinate delay of 07 days in lodging the instant FIR and there is no suicide note which shows that the petitioner in any manner has instigated or abetted the deceased to commit suicide in addition to the fact that learned State counsel has failed to provide specific allegations or instances demonstrating the petitioner's role.

In the light of above discussions and facts wherein prima-facie basic ingredients of Section 107 and 306 IPC are not being made out, it would be a futile exercise to send the petitioner behind bars for custodial interrogation, as investigation can be effectively completed with his

cooperation. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail.

5. **Decision**

In the light of above, the petitioner is directed to be released on anticipatory bail subject to her joining investigation with the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to his satisfaction. The petitioner shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS, which are reproduced below:-

‘When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including-

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 480, as if the bail were granted under that section.’

However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within a

period of one week, the order passed by this Court today shall automatically stands cancelled.

In the aforesaid terms, the present petition stands allowed.

29.10.2024

Poonam Negi

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No