

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

223

CRM-M-58220-2023 (O&M)
Date of decision: 13.02.2024

Resham Kaur @ Reshma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. A. P. S. Dhaliwal, Advocate
for the petitioner.

Mr. Satjot Singh, AAG, Punjab.

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. 31 dated 12.06.2023, registered under Sections 306/116 of IPC (Section 116 of IPC later on deleted) at Police Station Bajakhana, District Faridkot.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 12.06.2023, on receipt of an information regarding admission of victim Karamjit Kaur in Sukhmani Hospital, Goniana Mandi, District Bathinda as a case of consumption of some poisonous substance, a police party headed by SI Sukhdarshan Sharma had reached there and obtained opinion of the doctor regarding admission of the victim for the

Neutral Citation No. 2024:PHHC:019690

purpose recording her statement. As she was found fit to record her statement, therefore, in the presence of the treating doctor and her parent, her statement was recorded by the police, wherein she alleged that she was married with the accused Gurdev Singh 8-9 years back. Her husband used to physically assault her without any rhyme or reason. From the last about 02 years, she had stayed at her parental house and it was only about 02 months back that with the intervention of the Panchayat that her in-laws family had taken her back to her matrimonial home. She alleged that the present petitioner, who is mother-in-law, and her husband had started extending beatings after a few days of her reaching there and on 10.06.2023 at about 08.00 PM, on feeling fed up of their behaviour, she had consumed a chemical used for burning of grass and thereafter, she was got admitted in the hospital. She also alleged that she was taunted by the petitioner and her husband on petty matters and that her husband had also twisted her arm and had given punches to her. On the basis of the aforesaid statement of the victim, initially a case under Section 306 read with Section 116 of IPC was registered. The victim died on 17.06.2023. The inquest proceedings and postmortem of her dead body was conducted. The present petitioner, who is mother-in-law of the victim, was arrested on 17.06.2023. The co-accused was also arrested. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in Court against them and presently, the petitioner along with the co-accused is facing trial for commission of offence punishable under Section 306 of IPC. She had moved an application for grant of regular bail before the trial Court but the same was dismissed, vide order dated 08.08.2023.

Neutral Citation No. 2024:PHHC:019690

3. The present petition has been filed by the petitioner on the grounds and her counsel has argued that she has been falsely implicated in this case. She is a 72 years' old lady and had never instigated or abetted the victim to commit suicide. The ingredients of offence punishable under Section 306 of IPC were not at all made out against her. The trial is likely to take time. Her further detention is not going to serve any useful purpose. Therefore, it is urged that the present petition deserves to be allowed.

4. *Per contra*, learned State counsel has vehemently argued that there are serious allegations against the petitioner, who along with her son had harassed the victim to such an extent that she was forced/compelled to commit suicide by consuming some poisonous substance. He has argued that the investigation has completed, challan has been presented and there is nothing on record to show that there would be any undue delay in conclusion of trial. Hence, it is argued that the present petition is liable to be dismissed.

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

6. The petitioner has been booked and challaned for commission of offence punishable under Section 306 of IPC. The essential ingredients for commission of offence under this section are that there must be abetment and the intention of the accused to aid or to instigate or abet the deceased to commit suicide. The victim, in her statement as recorded on 10.06.2023, had stated that she had consumed some chemical as she was fed up of the behaviour of the present petitioner and her own husband, who used to physically assault her. The well settled proposition of law is that in cases of abetment of suicide, the prosecution must show a proof of direct or indirect

Neutral Citation No. 2024:PHHC:019690

act of incitement to the commission of suicide by the accused. Allegation of harassment of the deceased by the accused does not suffice, unless there is some material on record to show that some particular action on the part of the accused had compelled the victim to commit suicide and her suicide was proximate to such offending action. It must be shown that the accused played some active role by an act of instigation or by doing certain acts to facilitate the commission of suicide. It is also well settled proposition of law that to prove the offence of abetment, which is defined under Section 107 of IPC, it must be the state of mind of the accused to commit a particular crime, that must also be visible so as to determine the culpability of his action, meaning thereby that there must be some *mens rea* and some material on record to establish that he or she had a guilty mind and in furtherance of that state of mind, the suicide by the victim was abetted. Learned counsel for the petitioner has relied upon ***Aranb Manoranjan Goswami vs. State of Maharashtra and others : 2020 SCC Online SC 964***, wherein it was observed by Hon'ble Supreme Court that in order to bring out an offence under Section 306 of IPC, specific abetment as contemplated under Section 107 of IPC on the part of the accused with an intention to bring out the suicide of the person concerned as a result of that abetment, is required. It was also observed that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 of IPC. Keeping in view the well settled proposition of law with regard to the offence under Section 306 of IPC in mind, I am of the considered opinion that though in this case, the victim had specifically recorded a statement in the hospital that the present petitioner and her husband used to beat her up and as on that date, she had

Neutral Citation No. 2024:PHHC:019690

consumed some chemical as she was fed up from them but there is no allegation that the present petitioner had aided any instigation or had committed any such specific act, thereby showing that she intended to instigate the victim to commit suicide. The mere allegations of the victim being beaten up by the petitioner does not suffice to invoke the provision of Section 306 of IPC. The petitioner is in custody in this case since 17.06.2023. Keeping in view the discussion as made above, when it is debatable as to whether the petitioner had committed offence punishable under Section 306 of IPC, the period of her incarceration coupled with the fact that the trial is likely to take time, I am of the considered opinion that the present petition deserves to be allowed.

7. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to her 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.

13.02.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

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