

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-58597-2023(O&M)
Date of Decision: 01.03.2024

AMIT BIRLA

....Petitioner

VERSUS

STATE OF PUNJAB

....Respondent

CORAM : HON'BLE MRS. JUSTICE MANISHA BATRA

Present : Mr. Kewal Singh, Advocate for the petitioner.

Mr. Madhur Sharma, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Through the instant petition, prayer is made for grant of anticipatory bail to the petitioner in case FIR No. 240 dated 18.12.2022, under Sections 304-B of IPC later on converted to 306 IPC registered at Police Station Model Town, District Ludhiana.

2. The aforementioned FIR has been registered on the basis of statement recorded by the complainant - Sangeeta alleging therein that the victim-Muskan who was his elder daughter was married with the present petitioner in November, 2020. A male child was born to them. There were disputes between the victim and members of her in-laws family due to which a complaint was made previously. However, a compromise had been effected and the victim had returned to her in-laws house after about ten months. She alleged that the petitioner had been working at some Saloon at Mumbai. The victim had gone to live with him there twice but every time she had to return back on account of disputes between the petitioner and herself. On 17.12.2022, the husband of complainant had met with an accident. A telephonic conversation

had taken place between victim and the complainant. On the same night, she committed suicide by consuming something. She alleged that her suicide had been abetted by the petitioner and other family members of his family.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. Initially he was booked for commission of offence punishable under Section 304-B IPC. However, as no case of dowry of demand was found during investigation, therefore, the offence was converted into 306 of IPC. There is nothing on record to show that he had abetted the suicide by the victim in any manner. The petitioner used to stay at Mumbai and the victim never liked to stay there and used to compel him to shift to Ludhiana and on account of this fact, disputes used to occur between them. It is also submitted that the victim was mentally unstable. She had suicidal tendencies and she was under treatment of depression also.

4. Vide order dated 16.01.2024, the petitioner was directed to join the investigation and it is submitted by learned State counsel on instructions from ASI - Pardeep Kumar that he has joined investigation on 23.01.2024 and his custodial interrogation is no more required. The petitioner has also placed on record an affidavit dated 27.06.2022 shown to have been sworn by the victim stating that earlier she had extended threats to commit suicide but now she had realised her mistake and would not take any such step. The custodial interrogation of the petitioner is no more required. Neither any recovery is to be effected from him. It is well settled proposition of law that to prove the commission of offence punishable under Section 306 of IPC, the prosecution must show that the person who is said to have abetted the commission of suicide, had played an active role by act of instigation by doing certain acts to facilitate the commission of suicide. It must show a proof of direct or indirect

act of incitement to the commission of suicide by the accused. Allegation of harassment of the deceased by the accused do not suffice in the absence of any positive action on the part of the accused proximate to the time of occurrence which led to suicide. Further, in order to bring an offence under Section 306 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. In the present case, on the basis of the allegations as levelled in the FIR, it is a disputed question as to whether the petitioner had requisite *mens rea* and was responsible for abetting the suicide by the victim. At the stage of considering the plea for grant of bail, it is not feasible for the Court to draw any conclusion. It is for the Trial Court to decide on the basis of evidence to be adduced before it as to whether the ingredients of the commission of the offence punishable under Section 306 and 107 IPC have been made out or not and this question can be decided only when evidence would be produced before the Trial Court.

5. In view of the said facts, I am of the opinion that petitioner deserves to be given benefit of pre arrest bail therefore, the present petition is allowed and the order dated 16.01.2024 granting interim bail to the petitioner is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

01.03.2024

Deepak Patwal

**(MANISHA BATRA)
JUDGE**

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO