



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

CRM-M-54948-2024

DATE OF DECISION: 06.11.2024

RAJINDER KUMAR AND ANR

...PETITIONERS

Versus

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Arora, Advocate for the petitioner(s).
Mr. Jaspal Singh Guru, AAG, Punjab.
Mr. Ankur Bansal, Advocate for the complainant.

SANDEEP MOUDGIL, J (ORAL)1. Relief Sought

The jurisdiction of this Court under Section 482 of the BNSS has been invoked seeking the concession, for the grant of anticipatory bail to the present petitioners in FIR No.236 dated 25.09.2024, under Section 108 of BNS, 2023 registered at Police Station Navi Birandari, Jalandhar, Punjab.

2. Prosecution story, set up in the present case as per the version in the FIR read as under :-

‘Statement ofxds Ritu Bala Gupta w/o Sandeep Kumar Gupta Rio House No. EG-1083 Gobindgarh, Mohalla SD Road Jalandhar, Age-424 Mob. 88378- 69150: Stated that I am a resident of above said address and I am a domestic worker / house wife. On 25-09-2024 the time would be 08:00 AM that I was present in my house. My husband Sandeep Kumar Gupta and my son namely Kartik Gupta



were also present in the house. My husband Sandeep Gupta was sitting on the Bed in his room, then he suddenly vomited, so I went to his room and asked, are you fine, why did You vomit, But My husband did Not Say anything and same time My sister-in-law / JethaniArchanaGoyal Came to our house after hearing My voice. My Sister in law ArchanaGoyal asked My husband, have You eaten any Poisonous thing? Then my husband told her that I have taken wheat Medicine, andAfter saying this, my husband fainted. On which we arrange a ride and took my husband to Tagore Hospital where doctor Checked my husband and told us that the condition of my husband Sandeep Kumar is very bad and asked us to take him to DMC Ludhiana. Then we arranged ambulance and my husband was taken to DMC hospital Ludhiana, where the treatment of my husband was started By Doctor. During the treatment my husband Sandeep Kumar died in the hospital. When my husband's dead body was brought out from the hospital, then a one page suicide note written by his own hand writing found was found in the upper pocket of my

"I Sandeep Kumar Gupta S/o Narender Kumar Gupta am going to die. I was Cheated By Rajinder Bhatia and his brother AmitBhatia, Feed Businessmen,owner of Jamsher Daily Complex, (in tune of RS. 30 lakh) on account of money of the committee. Whenever I asked about money they said we do not have it. Whereas they have been purchasing plots one after another. Elder brother said younger brother will pay to you and younger brother said that the elder brother will pay to you. Elder one sent his Girl / Daughter to abroad. They are the cause of my death. Sandeep Kumar Gupta.

(2) RajuGowala and his Son GaganGowalahas to pay Rs. 18 to 19 lakh to me on account of cattle. They have taken



buffaloes from me by deception. I will give 3-4 Lakh Rupees in today or tomorrow. But then, No, Wait for 1-2 days, I will give. Not paid and bullies me (Gal Penda Hai). Do whatever, will not pay, they are reason of my death. They should be given maximum punishment. They should learn lesson that how to cheat someone because I also had to make payments. Traders used to pressurize me. Take today, Take tomorrow, my son is getting young. Sandeep Kumar Gupta". My husband has stated in his suicide note written by his own hand writing that he had to take money from the persons mentioned in suicide note. That my husband Sandeep Kumar Gupta repeatedly demanded his money from above said Rajinder Bhatia and his son Amit Bhatia 'Feed Wale' Jamsher Dairy Complex, and RajuGowala and his son GaganGowala; but the above said persons did not return my husband's money due to which my husband Sandeep Kumar Gupta has committed suicide by consuming poisoning substance after being harassed by the above said person. Due legal action should be taken against Rajinder Bhatia, Amit Bhatia, RajuGowala and his son GaganGowala. The statement has been written read over and heard by me. The same is true and correct. Signed in English RituBala Gupta Mobile NO. 8837869150. Attestation Vinod Kumar ASI PS:NaviBaradari Commissionerate, Jalandhar.'

3. Contentions

On behalf of the petitioner

Learned counsel for the petitioners has argued that the petitioners have been falsely implicated in this case. He has relied upon the judgment passed by this Court in '**Amarjit Singh and ors. vs. State of Punjab**' reported as 2009(2) RCR (Criminal) 229' and has submitted that the facts of the present case are on similar footing as that of the



decision made in the judgment referred above. The relevant part of the judgment reads as under:-

“From the aforesaid, the principle of law which can be culled out is that instigation for the purposes of abetment would be made out when the deceased is provoked or incited to commit suicide by words or action of the accused. However, the touchstone to determine whether acts or action constitute abetment by instigation would be whether such acts or action would induce a similarly circumstanced individual in a given society to which the deceased belong to commit suicide. For this reason the courts on various occasions when similar allegations have been made as mentioned in the FIR above have come to the conclusion that offence of abetment for the purposes of [Section 306](#) is not made out. Reference can be made to the case of [Ajay Patodia v. State of M.P.](#), 2004 Cri.L.J. 197 where the accused was to pay Rs 16,75,000 to the deceased but the same was not paid despite repeated demands. It was held by the court that offence under [Section 306](#) is not made out for the following reasons:

"In the present case, from perusal of the allegations made against the present applicant, at the most it can be said that the intention of the present applicant was neither to pay the amount due to the deceased nor that he should commit suicide. This Court in the case of [Vedprakash Bhaiji v. State of M.P.](#), 1995 Cri. LJ 893 has held that the accused persons were intimidated by the deceased that if they do not repay the loan advanced to them, then they will have to face dire consequences and immediately thereafter he committed suicide. This Court has held that it could not be said that the accused persons provoked, incited, urged or encouraged the deceased to commit



suicide. A person is said to "instigate" another to an act when he actively suggests or stimulates him to the act by any means of language, direct or indirect for commission of the offence. In the present case, there is no averment to that effect. This Court in the case of Sultan Singh and others v. State of Madhya Pradesh in Criminal Revision No. 441/2002 has also taken a similar view and held that the ingredients of abetment as defined in [section 107](#) of Indian Penal Code requires that knowledge and intention of the accused persons is necessary to hold the accused persons guilty of committing offence under [section 306](#), Indian Penal Code."

On behalf of the Stat/Complainant

Learned State Counsel appearing on advance notice on instructions from Investigating officer and counsel for the complainant vehemently opposes the prayer for grant of concession of anticipatory bail stating that the suicide note has been recovered from the deceased, therefore, to further reveal the truth, custodial interrogation of the petitioners is required.

4. **Analysis**

Be that as it may, in light of the aforesaid law relied upon by counsel for the petitioners and the factual circumstances unfolded through the instant FIR which are almost identical and similar wherein the allegation against the petitioner with regard to payment of Rs. 18-19 lakhs against the buffalo purchased from the deceased but the said payment got delayed and, as per the prosecution case, the deceased stated to have committed suicide on account of cheating being done by the petitioners. Be that as it may, prima facie whether the offence under

Section 108 of BNS is made out or not would be subject matter of the



Trial Court to be adjudicated, however, confining to the present petition, prayer for anticipatory bail has been made out and the judgment passed in Amarjit Singh and ors's case (supra) would apply to the instant case. Hence, this Court finds no reason to deny the petitioner the concession of anticipatory bail, wherein the petitioners have bona fide intentions and are willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within the stipulated time period.

5. **Decision**

Hence, in view of the admitted set of circumstances before this Court, the petitioners are hereby directed to be released on anticipatory bail subject to their joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Investigating Officer. The petitioners shall also abide by the terms and conditions as envisaged under Section 482(2) of BNSS of 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 one week, the order passed by this Court today shall automatically stand cancelled.

The petition in the aforesaid terms stand allowed.

(SANDEEP MOUDGIL)
JUDGE

06.11.2024
Meenu

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>