

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

310

CRM-M No.59835 of 2023
Date of decision: 24.01.2024

Deepak and another ... Petitioners

Vs.

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Prabhjot Singh, Advocate,
for the petitioners.

Mr. P.S. Pandher, AAG, Punjab.

MANISHA BATRA, J.

1. The present petition under Section 438 of Code of Criminal Procedure has been filed by the petitioners seeking anticipatory bail in case bearing FIR No.150, dated 29.08.2023, registered under Sections 306 and 34 of IPC, at Police Station City Jalalabad, District Fazilka.
2. The facts relevant for the purpose of disposal of this petition are that on 29.08.2023 on receipt of an information regarding the death of one Pooja Rani wife of Birbal due to consumption of some poisonous substance and her dead body being kept at New Life Medicity Multispeciality Hospital, Bathinda, a police party reached there, wherein the statement of complainant Rahul Kumar, brother of the victim Pooja Rani was recorded, who alleged that she was married with Birbal about 14-15 years back. They have four children. He further alleged that the

present petitioners who are husband of sister-in-law and sister-in-law respectively of the deceased along with mother-in-law of the victim used to quarrel with her. On 28.08.2023 at around 9:30 AM on receipt of a call from her sister that the petitioners and her mother-in-law were quarrelling with her and she was deeply hurt due to their behaviour, he advised her to remain quiet. However, on the same evening, he received a call from the husband of her sister that she had consumed some poisonous substance and was in a critical condition. He alleged that the petitioners who are husband of sister-in-law and sister-in-law respectively of the deceased along with her mother-in-law had abetted the death of his sister. After registration of FIR under Section 306 of IPC, investigation proceedings were being initiated which are going on.

3. The present petition has been filed by the petitioners on the grounds that they have been falsely implicated in this case on the basis of vague, false and concocted allegations. They had no role in abetting the suicide of the victim. Infact, they got married in the year 2013 and had been living in Bathinda thereafter. It was only on the beginning of year 2022 that they had shifted to Jalalabad. They were living separately from the victim and her husband and had no interference whatsoever in their lives. No suicide note had been left by the victim and the FIR had been lodged only to exert pressure upon them.

4. It will be relevant to mention here that the petitioners were directed to join the investigation vide order dated 12.12.2023. Learned State counsel has submitted that they have joined the investigation. It is,

further, submitted in the status report and learned State counsel has argued that there are serious allegations against the petitioners.

5. I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record carefully.

6. The victim Pooja Rani is alleged to have consumed some poisonous substance on 28.08.2023 and due to the impact of the same, she had died on 29.08.2023. As per the allegations, the present petitioners who are husband of sister-in-law and sister-in-law respectively of the deceased along with her mother-in-law used to quarrel with the victim and as on 28.08.2023 also they had quarrelled with her which fact had been intimated to the complainant by the victim on phone and on the same day, she had consumed a poisonous substance. The petitioners have since joined investigation. Their custodial interrogation is not required. No doubt, an accused does not become entitled to be given benefit of pre-arrest bail only due to the reason that his/her custodial interrogation is not required. However, keeping in view the allegations which have levelled against the petitioners to the effect that they used to quarrel with the victim, it has to be seen as to whether the allegations even if taken to be true on the face of record amount to making any abetment to commit suicide by the petitioners. In my considered opinion, there is nothing on record at this stage to show prima facie that there was any instigation on the part of the petitioners or they intentionally aided or conspired with each other to make the victim commit suicide. Offence of abetment by instigation depends upon the intention of the person who abets and not

upon the act which is done by the person who had been abetted. Quarrels made by the person accused, or words uttered in anger or omission without any intention cannot be termed as instigation. Since, the allegations as levelled in the FIR are lacking on the point of showing that there was any abetment on the part of the petitioners in the form of instigation, the conspiracy or intentional aid as provided under Section 107 of the IPC, therefore, I am of the considered opinion that no purpose would be served by detaining the petitioners. Their presence can be secured even otherwise also. With these submissions, I allow this petition and the order dated 12.12.2023 granting interim bail to the petitioners is made absolute, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure.

24.01.2024
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(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No