

Neutral Citation No.2024:PHHC:014647

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63173 of 2023
Reserved on: 29.01.2024
Pronounced on: 01.02.2024

Sanjana

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Deepak Jindal, Advocate with
Mr. Vikas Saini, Advocate for the
petitioner.

Mr. Sumit Jain, Addl. AG, Haryana.

Mr. Prashant Singh Chauhan, Advocate
with Mr. Aman Yadav & Mr. Himanshu
Munjhal, Advocate for the complainant.

DEEPAK GUPTA, J.

By way of present petition filed under Section 438 Cr.P.C., petitioner prays for grant of anticipatory bail in case FIR No.251 dated 24.10.2023 registered under Sections 306, 506 and 120-B read with Section 34 IPC at Police Station Sector 6, Dharuhera, District Rewari.

2. Shivam son of Virender Singh, committed suicide by hanging on 03.09.2023. His brother Tarun made a complaint on 24.10.2023 resulting into registration of present FIR, to take action against Smt. Sanjana (*petitioner*) wife of deceased, besides mother-in-law & father-in-law of the deceased and one Himanshu Chaudhary. It was alleged that marriage of deceased with petitioner – Sanjana was performed on 19.01.2023. After marriage, Shivam came to know that his wife i.e. petitioner was having

illicit relations with Himanshu Chaudhary. As and when she got opportunity, she used to talk to him on phone and on coming of any family member of the house, she used to disconnect the phone. Deceased came to know that said illicit relations of his wife were even prior to the marriage. He asked his wife (petitioner) not to talk to Himanshu Chaudhary but she refused. Shivam also contacted parents of the petitioner and informed them in this regard and they assured that they will counsel their daughter. However, petitioner did not mend her ways despite counselling by her parents and when Shivam complained to his parents-in-law, they asked him (Shivam) to keep their daughter as she is; otherwise he (Shivam) and his family members will be implicated in case of dowry. It was further alleged by the complainant that his brother was being harassed on both the sides inasmuch, on one side his wife (petitioner) was maintaining her illicit relations with Himanshu Chaudhary, whereas on the other hand, her family members were threatening the deceased to implicate him in false case of dowry and it is because of all this harassment that Shivam committed suicide in his rented room in Vikas Nagar at Bhiwadi, where he used to do work. Complainant Tarun also stated that on coming to know about the suicide by Shivam, police reached the spot and got the post mortem examination conducted. Later on, on opening the e-mail of his deceased brother, complainant came to know that his brother – deceased had put a video on e-mail against the accused regarding the suicide. It was stated by the complainant that earlier they did not have the proof against the accused but after getting this video on e-mail of deceased, they were approaching the Police to take action. It was also stated by the complainant that deceased used to tell him all the facts regarding his wife and the harassment being caused to him.

3. FIR was registered. Complainant produced a pen-drive containing three videos of deceased, besides screen-shot and Instagram chatting between the petitioner and the deceased along with certificate under Section 65-B of the Indian Evidence Act, which were taken into possession. It was found during investigation that petitioner used to talk to co-accused Himanshu Chaudhary on the mobile phone prior to the marriage and even after marriage and they also used to chat on Instagram. The details of that chatting is yet to be collected. In the videos, deceased also stated that he was being harassed by the petitioner and her family members to involve him in false dowry case and that his in-laws were demanding ₹5 lakhs from him, besides disclosing about the illicit relations of his wife with Himanshu Chaudhary which had forced him to commit suicide.

4.1 It is contended by learned counsel that petitioner has been falsely implicated on the basis of concocted story, made after one and half months from the date of alleged incident. In fact, it is the deceased, who used to beat the petitioner and inflict injuries upon her. It is further submitted that deceased has taken extreme step only due to the marital discord and that there is no direct or indirect act of incitement on the part of the petitioner to the commission of suicide by her husband. Even the video recording does not prove any instigation or abetment inasmuch as deceased committed suicide in his PG in Dharuhera, whereas petitioner/ her parents reside far away from that place in Palwal/ Ballabhgarh at the time of occurrence. Learned counsel for the petitioner further contends that no complaint was ever moved by the complainant or the deceased against the petitioner or her parents alleging threats of false implication. The suicide by deceased Shivam on 03.09.2023 is not the proximate or direct result of alleged illicit relations of the petitioner or alleged threatening by the

petitioner/ her parents.

4.2 Learned counsel has further referred to judgment of this Court in ***Saroj Vs. State of Haryana, Law Finder Doc Id #605045*** to contend that if wife had the illicit relations and husband suffered humiliation because of that, there was no mens rea to drive the deceased to commit suicide and the case does not fall within the definition of abetment under Section 306 IPC. Further reliance is placed upon another judgment of this Court in ***Primaljeet Kaur and another Vs. State of Punjab, 2022(1) RCR (Criminal) 893***, wherein it was held that even in case where wife is alleged to be of being woman of easy virtue, it cannot be stated that she instigated or aided commission of suicide. Learned counsel further relied upon a judgment of Hon'ble Supreme Court ***K.V. Prakash Babu Vs. State of Karnataka, 2017(1) RCR (Criminal) 60***, wherein husband was alleged to have developed extra marital relations with another woman. The wife committed suicide. The Hon'ble Supreme Court held that husband was not guilty of abetment. In ***State of Punjab Vs. Kamaljit Kaur alias Bholi and another, 2008(2) RCR (Criminal) 562***, this Court has observed that if husband committed suicide because his wife was of bad character, then his wife was held to be not guilty of abetment.

5. Strongly opposing the petition, learned State Counsel submits that police custody of the petitioner is required to interrogate her and to corroborate with the electronic evidence provided by the complainant party. Besides, recovery of mobile phone along with sim card of petitioner is required for the purpose of investigation. Learned State Counsel submits that as per the investigation conducted so far, as is evident from the video footage contained in e-mail of the deceased, he was being harassed by the petitioner and her parents, threatening him of false implication and that the

petitioner was also feeling humiliated because of the illicit relations of his wife-petitioner with Himanshu Chaudhary and despite counselling, petitioner did not desist from the said activities.

6. Learned counsel for the complainant, in order to oppose the petition, has referred to a judgment of this Court in ***Sapna and another Vs. State of Punjab, Law Finder Doc Id# 1739418***, wherein husband committed suicide. There were specific allegations against the wife that from day one, she had been harassing the deceased for sending her abroad. Petitioner was also alleged to have maintained illicit relations with another person named in the FIR. Another petitioner had allegedly misused his position of being policeman, manipulated a complaint against family of deceased just two days prior to the suicide by the deceased and that in these circumstances, it could not be ruled out that deceased was put under tremendous pressure and he could not avoid taking extreme step. This Court observed that events leading to the incident were of intricate details, surrounded by secrecy of intimate relations between the husband and the wife and only interrogation of the petitioners could disclose the entire sequence of correct facts. The application for anticipatory bail was declined by this Court. Further reliance is placed by learned counsel upon ***Naveen and another Vs. State of Haryana, Law Finder Doc Id #1274374***, wherein also an application for anticipatory bail moved by the wife in a case under Section 306 IPC in respect of suicide of her husband was dismissed.

7. I have considered the submission of both the sides and have appraised the record.

8. It is to be noted that marriage between petitioner and the deceased had taken place on 19.01.2023. Suicide was committed by deceased Shivam on 03.09.2023, i.e. within eight months of the marriage.

FIR has been lodged after about one and a half month of the suicide though with explanation by the complainant to the effect that earlier they were not having proof and it is only after opening the e-mail of the deceased that he came to know about the video on the e-mail of the deceased regarding his suicide, which he handed over to the Police. It is a moot point as to whether the allegations against the petitioner that she was having illicit relations with co-accused Himanshu Chaudhary since prior to the date of marriage, which she continued even after marriage, will come within the scope of abetment so as to invoke Section 306 IPC. No date is disclosed in the FIR as to when the petitioner or her parents threatened the deceased to falsely implicate him in dowry case. Suicide has been committed by deceased at a place far away from the place, where petitioner and her parents were residing.

9. In the afore-said facts and circumstances, present petition is accepted. It is directed that in the event of arrest of the petitioner, she be released on bail to the satisfaction of arresting officer. However, it is subject to the condition that petitioner shall join the investigation and co-operate in the same. She will also abide all the conditions mentioned in Section 438 (2) CrPC. State will be at liberty to seek cancellation of bail, in case of non-cooperation on the part of petitioner.

Disposed of.

February 01, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No