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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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Date of Decision: 17.12.2024

AJAY KUMAR

.. Petitioner

Vs.

STATE OF PUNJAB

..Respondent

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Ritesh Pandey, Advocate for the petitioner.

Mr. Anup Singh, AAG, Punjab.

...

**SUMEET GOEL, J. (Oral)**

1. Present petition has been filed under Section 483 of BNSS, 2023 for grant of regular bail to the petitioner in case bearing FIR No.47 dated 18.05.2024, registered for the offences punishable under Section 366 of IPC (Sections 306 and 120-B of IPC added later on) at Police Station Dera Baba Nanak, District Batala.

2. The case set up in the FIR in question (as set out by the petitioner in the present petition) is as follows:-

*“Statement of Sawinder Singh son of Chain Singh resident of Dharamkot Randhawa aged about 52 Years, stated that I am resident of above mentioned address and is selling Prasad at Gurudwara Chola Sahib Dera Baba Nanak, I have two daughters and 2 sons. My elder daughter Ramandeep Kaur is married and second Poonamdeep Kaur is unmarried and whose date of birth is 13.04.2000, who is doing computer course from ITI Gurdaspur. On dated 14.05.2024 as usual in the morning at 8.30 AM she has gone to ITI from home but did not return home to whom we searched from our relatives and knows persons at our own, who did not found us, now I came to know that my daughter Poonamdeep Kaur has enticed away by Ajay Kumar son of Kishan Lal at present II Colony Kalanaur Distt Gurdaspur who is uncle,s son of my wife Jaswant Kaur and who is married on the pretext of marriage I have recorded my statement to you, statement heard which is correct sd Sawinder Singh attested Mangu Ram son of Bau Ram r/o Dharamkot Randhawa attested*

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*Angrej Singh SI Chowki incharge Dharamkot Rrandhawa PS Dera Baba Nanak dt 18.05.2024.”*

3. Learned counsel for the petitioner has argued that the petitioner is in custody since 19.05.2024. Learned counsel for the petitioner has further iterated that the petitioner and the deceased had actually eloped away and later on they consumed poison together but, unfortunately, the victim (Poonamdeep Kaur) passed away but the petitioner survived. Learned counsel for the petitioner has further argued that there is no suicide note made by the deceased or recovered by the police. Learned counsel for the petitioner has further iterated that the offence under Section 306 of IPC is not made out from the factual matrix of the *lis*. In order to buttress his arguments, learned counsel for the petitioner has relied upon the dicta of a judgment passed by the Hon'ble Supreme Court in a case of '***Nipun Aneja and others Vs. State of Uttar Prades' decided in Criminal Appeal No.654 of 2017; 2024 INSC 767***', relevant whereof reads as under:-

*“21 The ingredients to constitute an offence under Section 306 of the IPC (abetment of suicide) would stand fulfilled if the suicide is committed by the deceased due to direct and alarming encouragement/incitement by the accused leaving no option but to commit suicide. Further, as the extreme action of committing suicide is also on account of great disturbance to the psychological imbalance of the deceased such incitement can be divided into two broad categories. First, where the deceased is having sentimental ties or physical relations with the accused and the second category would be where the deceased is having relations with the accused in his or her official capacity. In the case of former category sometimes a normal quarrel or the hot exchange of words may result into immediate psychological imbalance. consequently creating a situation of depression, loss of charm in life and if the person is unable to control sentiments of expectations, it may give temptations to the person to commit suicide, e.g., when there is relation of husband and wife, mother and son, brother and sister, sister and sister and other relations of such type, where sentimental tie is by blood or due to physical relations. In the case of second category the tie is on account of official relations, where the expectations would be to discharge the obligations as provided for such duty in law and to receive the considerations as provided in law. In normal circumstances, relationships by sentimental tie cannot be equated with the official relationship. The reason being different nature of conduct to maintain that relationship. The former category leaves more expectations, whereas in the latter category, by and large, the expectations and obligations are prescribed by law, rules, policies and regulations.*

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22      *The test that the Court should adopt in this type of cases is to make an endeavour to ascertain on the basis of the materials on record whether there is anything to indicate even prima facie that the accused intended the consequences of the act. I.e., suicide. Over a period of time, the trend of the courts is that such intention can be read into or gathered only after a full-fledged trial. The problem is that the courts just look into the factum of Suicide and nothing more. We believe that such understanding on the part of the courts is wrong. It all depends on the nature of the offence & accusation. For example, whether the accused had the common intention under Section 34 of the IPC could be gathered only after a full-fledged trial on the basis of the depositions of the witnesses as regards the genesis of the occurrence, the manner of assault, the weapon used, the role played by the accused etc. However, in cases of abetment of suicide by and large the facts make things clear more particularly from the nature of the allegations itself. The Courts should know how to apply the correct principles of law governing abetment of suicide to the facts on record. It is the inability on the part of the courts to understand and apply the correct principles of law to the cases of abetment of suicide, which leads to unnecessary prosecutions. We do understand and appreciate the feelings and sentiments of the family members of the deceased and we cannot find any fault on their part if they decide to lodge a First Information Report with the police. However, it is ultimately for the police and the courts of law to look into the matter and see that the persons against whom allegations have been levelled are not unnecessarily harassed or they are not put to trial just for the sake of prosecuting them.”*

4.            Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus the petitioner does not deserve the concession of the regular bail.

5.            I have heard counsel for the parties and have gone through the available records of the case.

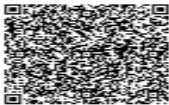
6.            The petitioner was arrested on 19.05.2024 whereinafter investigation was carried out & challan was presented on 07.07.2024. Total 16 prosecution witnesses have been cited and culmination of the trial will take its own time as charges were framed on 11.12.2024. The rival contention of the learned counsel for the parties; as to whether the petitioner and the deceased had eloped away on their own free will as also whether the offence under Section 306 of IPC is made out from the factual matrix of the *lis*; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it

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may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per the custody certificate dated 16.12.2024 filed by the learned State counsel, the petitioner has suffered incarceration for more than 06 months and 24 days & is not shown to be involved in any other case. Suffice to say further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the present case.

7. In view of totality of factual matrix of the present case, the instant petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the Ld. concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.
- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cellphone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number



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without prior permission of the trial Court/Illaqa Magistrate.

(vii) The petitioner shall not in any manner try to delay the trial.

8. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

9. Ordered accordingly.

10. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

11. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

17.12.2024  
Jasmine Kaur

(SUMEET GOEL)  
JUDGE

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|---------------------------|-----|----|
| Whether speaking/reasoned | Yes | No |
| Whether reportable        | Yes | No |