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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-19674-2025

Decided on : 24.04.2025

Abdul Aahad @ Aahad

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MS. JUSTICE KIRTI SINGH

Present : Mr. G.V.S. Behl, Advocate and
Ms. Raageshwari, Advocate
for the petitioner

Mr. R.S. Thind, DAG Punjab

Mr. Sanjeev Kumar, Advocate
for the complainant

KIRTI SINGH, J. (Oral)

1. This is the first petition filed under Section 482 of BNSS for grant of anticipatory bail to the petitioner in case FIR No.0031 dated 17.03.2025 under Section 80 of BNS, 2023 registered at Police Station City-II, Malerkotla, District Malerkotla.

2. The contents of the above-mentioned FIR are reproduced herein below:-

“Copy of Rapat: At present, it is on record that a statement of Sarfraz son of Mehboob resident of Kelon Gate, Mohalla Baluka, Malerkotla, mobile no, 88375-96100 recorded by ASI Sukhdev Singh 2327/Sgr has been received by hand of C. Sukhdeep Singh, 2934/Ptl, the transcript of the same is such that, I am a resident of the aforementioned address and I have a grocery shop at Madevi Road Malerkotla. We are 5 brothers and sisters. Out of whom, 4 are sisters and I am the only



brother. Among them I am the eldest, Sajia aged about 30 years is younger than me. Then Samreen aged about 26 years, Sahin aged about 24 years, youngest is Sanha aged about 18 years. Only my youngest sister Sanha is unmarried, the other three sisters are married. The love marriage of my sister Sahin was solemnized about 6 months ago with Ahid son of Bashir resident of Duma Wali Gali, near Satta Chowk, Malerkotla. Due to this love marriage, we were not on talking terms with my sister. Today on 27.02.2024, at around 4.30 PM, I came to know that my sister Sahin has passed away. I suspect that my sister has been killed by her in-laws, as such, medical examination and investigation proceedings of her death should be instituted. Therefore, a medical examination of my sister Sahin's body should be conducted and appropriate action should be taken after investigating her death. I have recorded the statement, heard it, and the same to be correct. Sd/- Sarfraz, statement validated by I, Mehboob of Mohammad Ishfaq, resident of Kelon Gate, Mohalla Baluka, Malerkotla do hereby validate the statement of my son Sarfraz. He has recorded the above statement in my presence. LTI/- Mehboob. Verified by Sd/- Sukhdev Singh ASI Police Station City-2 Malerkotla Dated 27.02.2024. Police Proceedings: Today on 27.02.2024, Head Munshi, Police Station City-2 Malerkotla received a telephonic call from Police Post Civil Hospital, Malerkotla that victim Sahin wife of Ahid resident of Satta Chowk, Mohalla Niayi Wala, Malerkotla has died, detail an investigating officer for proceedings. Whereupon, I ASI alongwith Constable Sukhdeep Singh 2934/Ptl, Lady Constable Satvir Kaur 2173/Sgr, reached Civil Hospital Malerkotla for instituting proceedings and obtained ruqa from Police Post, whereby, Sarfraz son of Mehboob resident of Kelon Gate, Mohalla Baluka, Malerkotla came present and recorded his statement with me, which was read over, who after hearing and admitting his statement to be correct, appended his signatures below the statement in English and father Mehboob appended his left thumb impression corroborating his statement. I verify the same. From the transcript of the statement, the



matter seems to be about the suspicious death of the girl Sahin. It is necessary to institute inquiry proceedings. Due to the fact that the death was human, proceedings under Section 174 CrPC are being initiated. On the receipt of post mortem report and inquiry, further proceedings shall be carried out accordingly. To record the statement in General Diary, Constable Sukhdeep Singh 2934/Ptl is forwarded to the Police Station City-2 Malerkotla. Copy Rapat to be notified. Place Civil Hospital Malerkotla at 10.00 PM. Sd/- Sukhdev Singh ASI Police Station City-2 Malerkotla. Dated 27.02.2024. On the receipt of the statement, the statement was registered in CCTNS verbatim and C. Sukhdeep Singh 2934/Ptl was sent along with the original statement and copy of rapat. Sd/- ASI Sukhdev Singh 2327/Sgr Head Munshi Police Station City-2 Malerkotla. Dated 17.03.2025. Police Proceedings: Today I ASI along with HC Safiq Khan 1575/Sgr was present in the police station then Sarfraz son of Mehboob, resident of Kelon Gate, Mohalla Baluka, Malerkotla came present before myself ASI and submitted his affidavit that with regard to the death of my sister on 27.02.2024 at the house of her husband Ahid son of Bashir, resident of Duma Wali Gali, near Satta Chowk, Malerkotla, proceedings were instituted on my statement vide Rapat No. 31 dated 27.02.2024 under Section 174 CrPC at the Police Station City-2 Malerkotla. However, now we have learnt that Ahid son of Bashir, resident of Duma Wali Gali, near Satta Chowk, Malerkotla, husband of my sister Sahin used to demand dowry and would beat my sister. Even on 27.02.2024, Ahid and his younger brother beat up my sister and strangulated her to death. From the supplementary statement as well as copy of Rapat No. 31 dated 27.02.2024 under Section 174 CrPC registered at Police Station City-2 Malerkotla as well as mark visible on the right side of neck and below the chin depicted in Column No. 10 of Form No. 25/35(1)(a) and neck mark visible in the photograph appended with the post mortem report and the opinion rendered by the board of doctors of Government Medical College, Patiala, Department of Forensic Science Medicine bearing No.



FMD2024/606 dated 20.11.2024, wherein it has been mentioned that Opinion after going through the above record we are of the opinion that, the photographs provided raise suspicion of possible injuries on neck, however in the absence of definitive postmortem correlation or histopathological findings, the cause of death cannot be conclusively determined, the investigating agencies may consider exhumation for further investigation, if deemed necessary, offence under Section 80 BNS is made out. Copy of rapar has been handed over to ASI Sukhdev Singh MHC Police Station for registration of case under the given offence against Ahid son of Bashir, resident of Duma Wali Gali, near Satta Chowk, Malerkotla. File number be notified after registration of case. During the course of investigation, if any evidence comes on record against any other family member then appropriate action should be taken against him. I ASI alongwith HC Safiq Khan 1575 Sgr depart for the search of the accused. Place Police Station City-2 Malerkotla at 9:40 PM. Sd/- ASI Gursharan Singh 662 Ptl, Police Station City-2 Malerkotla. Dated 17.03.2025. On the receipt of rapar, the aforementioned case has been registered under the given offence against Ahid son of Bashir, resident of Duma Wali Gali, near Satta Chowk, Malerkotla, whereupon, final document has been prepared and record has been compiled. Incharge Control Room Malerkotla is being notified. Copies of FIR as special reports are being forwarded in favour of Ilaqa Magistrate and senior police officials by hand of SC Ramanjit Singh 781/Sgt. Original copy of rapar alongwith FIR has been referred to ASI Gursharan Singh 662/Ptl for investigating proceedings at the place of occurrence by hand of PHGBikkar Singh 26890.”

3. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the instant case. The petitioner solemnized love marriage with the deceased on 02.07.2023, against the wishes of her family members, after which, she was disowned by her own family members. To substantiate his



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submission, learned counsel has placed reliance on the public statement of the father of the deceased annexed at Annexure P-2. He further submits that the deceased was suffering from various health complications at the time of her pregnancy, leading to the deterioration of her health, whereafter she passed away on 27.02.2024. The postmortem report dated 28.02.2024 did not record any ligature marks or any external or internal injury on the person of the deceased nor was any definite cause of death ascertained in the same. It is also submitted by the learned counsel that the FIR was lodged after an inordinate delay of more than a year. Learned counsel submits that the petitioner is ready to join the investigation.

4. *Per contra*, learned State counsel while opposing the prayer made by learned counsel for the petitioner has submitted that there are serious allegations levelled against the petitioner. He contends that on 27.02.2024, the statement of the brother of the deceased was duly recorded, whereafter inquest proceeding under Section 174 Cr.P.C. was initiated. In response to the letter of the SSP, Malerkotla addressed to the Director Forensic Department, Rajindra Hospital, Patiala for seeking opinion with regard to giving specific cause of death of deceased, a letter was received wherein it was opined that "After going through the above record we are opinion that, the photographs provided raise suspicion of possible injuries on neck, however, in the absence of definitive postmortem correlation or histopathological findings, the cause of death cannot be conclusively determined. The Investigating Agencies may consider exhumation for further investigation, if deemed necessary." He further submits that on 17.03.2025, the complainant Sarfraz got recorded his supplementary statement before the Investigating Agency stating therein that after 6 months of marriage on dated 27.02.2024, his sister called him on his mobile phone No.88375-96100 from her

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mobile No.78148-66299 and asked him to take her away or else the in-laws would kill her, whereafter he received the news of her passing away. On reaching her house, they saw strangulation marks on the neck of the deceased and also noticed that something was written on her hand with a blue pen that appeared to have been erased by someone. It was further alleged that on 27.02.2023, the petitioner in collusion with his brother had beaten up the deceased, and strangled her to death. Learned State counsel further submits that during investigation, two witnesses namely one Mohammad Baseem and one Khurshid Alam and got recorded their statements, from which, it is evident that the deceased was being harassed and pressurized by the petitioner on the demand of dowry. It came to surface during investigation that a demand of Rs.50,000/- was made from the deceased and the father of deceased withdrew Rs.40,000/- from his bank account to fulfil the demand and on 29.05.2023, gave the same to the petitioner. Learned State counsel submits that custodial interrogation of the petitioner is necessary to ascertain the truth of the allegations and for collecting evidence, including the mobile phone of the deceased.

5. It is the submission of learned counsel for the complainant that his sister, who was subjected to constant demands for dowry, died within the first year of her marriage with the petitioner under mysterious circumstances. Therefore, in light of the gravity of the offence, the petitioner does not deserve to be granted the concession of anticipatory bail.

6. Heard the rival submissions made by learned counsel for the parties and perused the record.

7. In *Srikant Upadhyay and others vs. State of Bihar and another*,



2024 (INSC) 202 (SC), Hon'ble Supreme Court held as under:

*“It is thus obvious from the catena of decisions dealing with bail that even while clarifying that arrest should be the last option and it should be restricted to cases where arrest is imperative in the facts and circumstances of a case, the consistent view is that the grant of anticipatory bail shall be restricted to exceptional circumstances. In other words, the position is that the power to grant anticipatory bail under Section 438, Cr.P.C. is an exceptional power and should be exercised only in exceptional cases and not as a matter of course. Its object is to ensure that a person should not be harassed or humiliated in order to satisfy the grudge or personal vendetta of the complainant. (See the decision of this Court in *HDFC Bank Ltd. v. J.J.Mannan & Anr.* 2010 (1) SCC 679).*

*Further, it was clearly observed in para No. 24 of the judgment (supra) that “**though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule.** It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. While called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases. At any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power. Certainly, this will not deprive the power of the Court to grant pre-arrest bail in extreme, exceptional cases in the interest of justice. But then, person(s) continuously, defying orders and keep absconding is not*



entitled to such grant.”

8. In ***Sushila Aggarwal v. State (NCT of Delhi) (2018) 7 SCC 731***, the Constitution Bench reaffirmed that when considering applications for anticipatory bail, courts should consider factors such as the nature and gravity of the offences, the role attributed to the applicant, and the specific facts of the case.

9. Further, the general rule, put tersely, may be of bail, no jail; however, a just exception may be taken where there are circumstances which might thwart the course of justice. The antecedents of the accused or the probability of the accused fleeing, intimidating witnesses or tampering with the evidence, *inter alia*, weigh in heavy before the Court when dealing with a petition for the grant of anticipatory bail.

10. *Prima facie*, there are serious allegations levelled against the petitioner. There is suspicion regarding the presence of strangulation marks on the neck of the deceased person, which was raised by the forensic medical department, Government Medical College, Patiala in the letter dated 20.11.2024. The allegation of strangulation has also been put forth in the supplementary statement of the complainant. Further, due investigation was carried out under Section 174 Cr.P.C. prior to the registration of the aforesaid FIR, wherein the *prima facie* allegation are stated to have been corroborated by way of evidence, including the statement of witnesses. It has also been submitted by the learned State counsel that in view of the serious allegations levelled against the petitioner, his custodial interrogation is necessitated.

11. In the light of the foregoing discussion, this Court is not inclined to grant the concession of anticipatory bail to the petitioner.

12. Accordingly, the petition is dismissed.



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- 13. Needless to mention that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.
- 14. Pending application(s), if any, also stands disposed of accordingly.

(KIRTI SINGH)
JUDGE

April 24, 2025
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No