

Kulwinder Kaur vs State of Punjab

Present: Mr. Suvir Sidhu and Mr. Sukhcharan Singh Gill,
Advocates for the petitioner.

The present petition has been filed under Section 438 Cr.P.C. for grant of pre-arrest bail to the petitioner in case FIR No.407, dated 26.09.2020, registered under Sections 306, 34 of the Indian Penal Code at Police Station City Barnala, District Barnala.

Learned counsel for the petitioner contends that the present FIR is not made out the petitioner, who is the mother-in-law of the deceased husband, on account of the fact that the incident in question is of 25.09.2020, whereas the petitioner had left for Canada in February, 2020 as is apparent from the FIR and since then had remained there, including the time of registration of the FIR. He further submits that there is no specific allegation qua the role of the petitioner except general one's. He also submits that the suicide note has been produced after 15 days of the incident, authenticity of which is also doubted. He further submits that there has been no proceeding taken out by the police authorities in this regard despite the FIR having been lodged on 26.09.2020, about two years ago.

Learned counsel for the petitioner further submits that the petitioner is ready and willing to join investigation during any period as the police authorities would indicate. He relies upon the judgment of Hon'ble Gujarat High Court in CRM No.9041 of 2012, titled as "*Hiteshkumar Vadilal Shah & 1 vs State of Gujarat*" decided on 28.06.2012, to submit that there is no bar for a person, who is residing abroad to file for anticipatory bail application, reasonable apprehension of arrest is the only necessity for filing the same.

Notice of motion for 08.12.2022.

At the asking of the Court, Mr. Manipal Atwal, DAG, Punjab, accepts notice on behalf of respondent-State.

Learned State counsel submits that the petitioner has been specifically named in the FIR and in the suicide note wherein the allegations levelled against the petitioner is that money was being demanded from the deceased.

Meanwhile, the petitioner is directed to join the investigation on or before 15.11.2022. In the event of arrest of the petitioner, she shall be released on interim bail to the satisfaction of the Arresting Officer, subject to compliance of the conditions under Section 438(2) Cr.P.C and the following conditions: -

- i) shall cooperate with the investigation and make himself available for interrogation whenever required.*
- ii) shall not hamper the investigation in any manner nor shall directly or indirectly make any inducement, threat or promise to any witness so as to dissuade them from disclosing such facts to the Court or to any police officer;*
- iii) shall at the time of execution of bond, furnish the address to the Investigating Officer and the Court concerned and shall not change the residence till the final disposal of the case or till further orders;*
- iv) will not leave India without the permission of the Court and surrender the passport before the trial Court immediately;*
- (v) it would be open to the Investigating Officer to file an application for remand, if he considers it just and proper and the concerned Magistrate would decide it on merits;*
- vi) despite this order, it would be open for the Investigating Agency to apply to the competent Magistrate, for police remand of the applicant. The applicant shall remain present before the learned Magistrate on the first date of hearing of such application and on all subsequent occasions, as may be directed by the*

learned Magistrate. This would be sufficient to treat the accused in the judicial custody for the purpose of entertaining application of the prosecution for police remand. This is, however, without prejudice to the right of the accused to seek stay against an order of remand, if ultimately granted, and the power of the learned Magistrate to consider such a request in accordance with law. It is clarified that the applicant, even if, remanded to the police custody, upon completion of such period of police remand, shall be set free immediately, subject to other conditions of this anticipatory bail order.”

However, it is clarified that if the petitioner does not join and cooperate with the Investigating Agency within the stipulated time as granted by this order, this interim order shall be deemed to have been vacated.

(AMAN CHAUDHARY)
JUDGE

September 15, 2022
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