

**IN THE COURT OF PUNEET MOHAN SHARMA,
ADDITIONAL SESSIONS JUDGE (UID NO. PB0167)
SHAHEED BHAGAT SINGH NAGAR**

Date of Institution: 01.02.2021
Date of order : 08.02.2021
CNR No.PBSB01000284-2021

Jagir Kaur @ Jagiro aged 55 years w/o Joginder Singh D/o Rewal Singh, resident of Village Shokran, P.S. Rahon, Tehsil Nawanshahr, District SBS Nagar.

Versus

State of Punjab.

FIR No.11 Dated 28.01.2021
U/s 306 of IPC.
P.S. Balachaur.

Present: Sh. Rajan Sareen, Advocate for accused/applicant
Jagir Kaur.
Sh. Tejvir Singh, Addl. PP for the State.
Sh. SS Kundra Advocate for Complainant

BAIL APPLICATION U/S 438 Cr.P.C

O R D E R:

1. Heard. Vide this order, I shall dispose of bail application U/S 438 Cr.P.C. for grant of anticipatory bail filed by applicant/accused **Jagir Kaur** in FIR No.11 dated 28.01.2021, U/S 306 of IPC P.S. Balachaur.

(Puneet Mohan Sharma, ASJ, SBS Nagar (UID No. PB0167))

2. The brief facts of the case are that the present FIR was registered on the complaint of Avtar Singh son of Kewal Singh wherein he stated that his uncle (brother is his father) Joginder Singh was married to Jagir Kaur about 20 years back. He had two children namely Apneet Kaur aged about 18 years and Paramveer Singh aged about 16 years. His uncle remained in Doha Qatar for 20/22 years and was also visiting India. There used to be dispute between Jagir Kaur (applicant) and Joginder Singh. The applicant had left Joginder Singh many years ago and was residing in her parental house at village Shokran. Jagir Kaur had filed a case for maintenance and it was ordered by the Court that his uncle Joginder Singh would pay Rs.14,000/- per month as maintenance which was later enhanced to 16,000/- per month. His uncle was paying the maintenance for quite longtime. Thereafter, the matter was compromised between them. After living with Joginder Singh for one year and three months, she again went back with children taking her all the articles. Thereafter, his uncle was under stress as his aunt Jagir Kaur was harassing his uncle. There used to be daily dispute between Jagir Kaur and her husband. On 27.01.2021, he went to the house of Joginder Singh, who was very upset and told him about the case filed by Jagir Kaur against him. He also told that he has already spent Rs. 7 lacs. She has taken away

his 12 tolas of gold and would also grab his land and house. It has become very difficult for him to meet his both ends and shown his intention to commit suicide. His co-villager Jeet told him that his uncle Joginder Singh is lying unconscious in his house and there is froth in his mouth. Thereafter, Joginder Singh was taken to Civil Hospital, Balachaur but he was declared brought dead. Now apprehending his arrest, applicant/accused Jagir Kaur moved this application U/S 438 of Cr.P.C for grant of anticipatory bail.

3. Notice of this bail application was issued to the state but no reply has been filed. However, the application has been contested by Ld. Addl.P.P for the state assisted by Sh. SS Kundra Advocate on behalf of the complainant.

4. I have heard ld. counsel for the applicants/accused and Ld. Addl.P.P for the state and assisted by Sh. SS Kundra Advocate on behalf of the complainant and gone through the record produced by the Investigating Officer of the case.

5 Ld. counsel for the applicant/accused contended that the applicant/accused has been falsely implicated in the present case. In fact the applicant had filed a petition for grant of maintenance as the applicant and her minor children were thrown out of the matrimonial home and these circumstances, the applicant and her children had no option except to claim the maintenance and they were granted maintenance by the Court which can never be considered as abetment to commit suicide. Ld. counsel for the applicant further contended that complainant Avtar Singh was cultivating the land of deceased Joginder Singh and he is the instrumental in breaking the compromise between the parties and want to grab the property of the deceased. Further , the deceased did not write anything against the applicant in the alleged suicide note attracting the commission of offence U/S 306 of IPC. Ld. Counsel further contended that the applicant is ready to join the investigation and cooperate with the Investigating agency and prayed for granting the benefit of anticipatory bail .

6. On the other hand, Ld. Addl.P.P for the state contended that the applicant/accused was harassing the deceased and she also filed a petition for grant of maintenance against the deceased and the deceased was under

stress and was having apprehension that his property may be taken away by the applicant and his children due to which he committed suicide. Ld. Addl.P.P for the state further argued that the applicant/ accused is responsible for the death of deceased Joginder Singh as he was under pressure due to harassment caused by the applicant and in the end prayed for dismissal of the bail application.

7. In the present case, the allegations levelled against the applicant is that the applicant instigated and abetted her husband Joginder Singh to commit suicide by pressurizing him to pay maintenance as the applicant had left Joginder Singh many years ago and was residing in her parental house at village Shokran. Apparently, there was matrimonial dispute between the deceased and the applicant, who is the wife of deceased Joginder Singh. As per the version of the prosecution, the applicant left the company of the deceased many years ago and but the matter was compromised between the parties and the applicant alongwith minor children resided with the deceased for a period of one year and three months but thereafter again, there was no smooth sailing between the parties and the applicant went to the house of her parents alongwith her minor children. In order to claim maintenance for herself and her

children, the applicant filed a petition for grant of maintenance, which was granted by the Court in favour of the applicant and her children. The deceased made part payment of the maintenance to the applicant but he did not make any payment to the applicant after 2016. Thereafter again the matter was settled between the parties but they could not live peacefully and again the applicant started residing separately. It has been submitted that after 06/04/2019 nothing was paid by the deceased to the applicant as arrears of maintenance and even deceased and the complainant family threatened her, which led to filing of a complaint before the police on 22/04/2019. Admittedly applicant had moved a petition for seeking maintenance for herself and her minor children. Filing of petition seeking maintenance by a wife for herself and minor children is a legal remedy, which was available with the applicant so that she along with her minor children can be saved from vagrancy and destitution. If the deceased was under stress due to the payment of the maintenance to his estranged wife and minor children on the order of Court, it cannot be said as an act of abetment on the part of wife due to which the husband may commit suicide. Apparently applicant was availing her legal remedy as available under the law. Further perusal of the suicide note allegedly recovered in this case goes to show that nothing has been stated against the applicant ,

which can be termed as abetment to commit suicide by deceased Joginder Singh. In fact, the deceased has stated in the suicide note that he was under fear that his property may be taken away by the applicant and his children. Even otherwise, the applicant is ready to join the investigation and cooperate with the Investigating Agency. Whereas to prove the role and involvement of the applicant in commission of alleged offence, the prosecution may bring further material during the course of investigation or during trial which is to be adjudicated on its own merits. As such, I am of the considered view that it is a fit case where the applicant should be granted the relief of anticipatory bail. Accordingly, the application filed by the applicant **Jagir Kaur @ Jagiro** U/S 438 of Cr.P.C is allowed with the direction that she shall join the investigation within 10 days from today and on doing so, in the event of arrest of the applicant/accused, she shall be released on anticipatory bail to the satisfaction of Investigating Officer/ Arresting Officer, subject to the following conditions:-

- A. Accused-applicant shall make herself available for interrogation by police officer as and when required.
- B. Accused-applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of present case so as to dissuade them from disclosing such facts to the Court or to any police officer.

- C. Accused-applicant shall not leave India without prior permission of the trial Court.

8. The observations made by this Court while deciding this application are only for limited purposes for adjudication of the bail application and as such, are not to be construed expression of merits of the case. Record be returned and the file of this bail application be consigned to record room.

Date of order: 08.02.2021

(mahesh)

(Puneet Mohan Sharma)
Addl. Sessions Judge (UID No.PB0167)
SBS Nagar

(Puneet Mohan Sharma,ASJ, SBS Nagar (UID No.PB0167))