

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Reserved on: 13.09.2019

Judgment Pronounced on: 16.10.2019

+ BAIL APPLICATION. No. 887/2019

RITIKA

..... Petitioner

Through Mr. Rashid Azam, Advocate.
versus

STATE

..... Respondent

Through Ms. Neelam Sharma, APP for
State with IO.
Mr. Jaspreet Singh Rai, Adv.
for complainant with
complainant in person.

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

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JUDGMENT

1. Vide this order, I shall dispose of an application filed by the petitioner Ritika under section 438 read with Section 482 of Cr.P.C. for grant of anticipatory bail in case FIR No. 38/19 registered at PS Inderpuri.

2. The case of the prosecution is that X (actual name withheld) the only daughter of the complainant (who was born on 20.12.2005) was studying in class-VII at Gyan Mandir Public School, E-Block, Nariana Vihar, New Delhi-110028. The complainant is an Advocate

by profession and is practicing at Tis Hazari Courts, Delhi. The daughter of the complainant had been asking the complainant to change her school for the last three months but the complainant had told her that since most of the session is over, she will definitely change her school next year. The complainant had also been asking her daughter the reason for change of school but she had only replied that the atmosphere in the school is not good. On 30.11.2018, the daughter of the complainant had come weeping from the school and told the complainant in the evening that she would not go to school tomorrow. On next day i.e. on 01.12.2018, the daughter of the complainant did not go to school and stayed at home. As usual, the complainant went to court at about 1.00 p.m. asking her daughter to take help of her grandmother (Nani) who resides in the same lane at a little distance. In the evening, the complainant had contacted her tuition teacher to prepare her daughter for the tests which were to commence from Monday i.e. 03.12.2018. However, the tuition teacher replied that she has not turned up. Complainant also contacted her mother who resides in the same locality to contact her daughter and try to send her for tuition.

In the meanwhile, the complainant also reached home at about 6.00 p.m and knocked the door repeatedly but the same was not opened. The complainant thought that her daughter might be in sound sleep but after passage of nearly an hour, she became panicky and asked the neighbours to break open the glass of the window which was by the side of main door. After breaking the glass, she managed to open the door and when she entered the room, she saw that her daughter was hanging with the ceiling fan. She hurriedly brought her down after opening the knot of the Chunni with the help of the neighbourers. The complainant with the help of her neighbours took her to Kapoor Nursing Home, Nariana Vihar. On the door of the hospital, one junior doctor met the complainant and told her that there is no facility of ventilator and therefore, she should take her daughter to some other hospital. Complainant asked her for ambulance but the doctor blatantly refused. She managed a three wheeler scooter and took her daughter to Kheda Metro Hospital in Pandav Nagar, Delhi where she was declared brought-dead.

3. The Investigating Officer conducted the investigation and recorded her statement. Complainant told all the facts to the IO but

at that time she was not aware that her deceased daughter has written a suicide note. The complainant, therefore, told the IO that at present she is unable to say as to who is responsible for suicide.

4. It is the case of the prosecution that though when the complainant was lifting her daughter after bringing her down from ceiling fan, she had noticed that something was written in the register but since the daughter was to be rushed to the hospital, she did not care to go through the same. At the time when dead body was being moved, doctor at the hospital had noticed something written by pen on both the hands and palms. The doctor had asked her to take photographs from her mobile phone but she was in great shock, she had asked the doctor to help her. The doctor with the mobile phone of the complainant took photographs of both palms and hands where something was written. The photographs taken by the doctor revealed that on one palm, it has written that, "meri maut ki khabar school tak jarur pahuchana".

5. Some persons and children from the neighbourhood told the petitioner that her daughter was being abused and tortured by class-teacher Ms. Aarti and Biology Teacher Ms. Ritika. The daughter of

the complainant was told that she is characterless and she passes smiles all the time. She was called to biology lab/staff room on 30.11.2018. After that she was found weeping and had put her head down. After the school was over, the daughter of the complainant was found running to the toilet to commit suicide but was stopped by classmates. She had said good bye to all and also told that she would not come to this school again and she would commit suicide at home. These facts were told to the complainant by classmates of her daughter and neighborhood children. The daughter of the petitioner was being mentally tortured by the above mentioned two teachers. They had abused, scolded her and called her characterless as well and they are responsible for her death.

6. At the place of suicide, one notebook was also found lying on the bed which contained a suicide note and the same runs as follows:-

"Vo teachers app ko ja bhi Bola di vo sab jhute ha, mujhe pata ha app sab unki hi batt mano ja, that is why am committing suicides, please rona mat pls bye. That is why maa ajj school nahi gaye, mujha 6 class ka batcho na fasaya ha, ya mari pauri class to pata ha, because of

*my class teacher Arti Ma'am and Ritika Ma'am,
bye I love you all last time for me 3:30 bye"*

*"Mummy and Nani I hate tears bye app jasi
family har kisiko mila, mummy rona mat or nahi
ko bhi mat rona dena app donoka eyes ma asu
acha nahi lagaga, bye mummy bye bye nani I
am going to die bye"*

7. Apart from the above suicide note, some words were also written on right and left palms and left hand of the deceased which are as follows:-

On the right plam, the following sentence was written:-

"I love U Mummy and Nani"

On the left hand, the following sentence were written:-

"Jai Shri Krishna I am coming, Last 4:00 Bye"

On the left palm, following words were written:-

*"mara suside ki khabar school tak zarur
pahuchana, bye word."*

8. Ld. Counsel for the petitioner has prayed for anticipatory bail on the ground that the applicant is a teacher by profession since 2014 and till date no complaint has ever been made against her. In order to falsely implicate the petitioner, the complainant has concocted a false story as petitioner had no occasion to instigate the

child in question. Petitioner is not even the class teacher or instructor of any subject relating to the deceased child. The only thing, the petitioner can remember is that one of the students from her class namely Parth Uttam had been in a lot indulgence with the deceased child to which the applicant had scolded Parth Uttam to concentrate on his studies as he would have ample time for phone communications after the cycle tests are over.

9. It is further stated that the act of abetment of suicide cannot be read in isolation and has to be read with Section 107 IPC which carries the wisdom to distinguish what constitutes instigation and what does not.

10. It is further stated that contents of suicide note and the sentences allegedly written on the palms and hand of the deceased nowhere suggest that the applicant had abetted the deceased in the commission of the act of suicide. Deceased has categorically stated in her suicide note that the *"Vo teachers aapp ko ja bhi Bola di vo sab jhute ha, mujha pata ha app sab unki hi baat mano ja, that is why am committing sueside, please rona mat pls bye"*.

11. It is further submitted that bare perusal of the alleged suicide note where it is written that "Mujhe 6 class ke bacho ne fasaya hai, hamari puri class ko pata hai" clearly depicts that if there was some issue, which was bothering the deceased, it was between the kids and not between the teachers and the deceased and, therefore, there is a very remote chance for the petitioner to play any role in the suicide. As per contents of FIR, when the complainant allegedly asked the deceased why she wanted to change her school, the deceased had replied that "the atmosphere in the school is not good" and no specific allegation was levelled by the deceased against the petitioner or any other teacher. It is further submitted that the suicide note was planted later on by the complainant in order to implicate the petitioner as at the time of giving statement to the IO, she had said that she was not aware about any suicide note but in Crl. W.P., the complainant stated that she noticed something was written in the register while bringing down deceased from ceiling fan. The alleged suicide note does not, in any manner, shows that the petitioner had instigated the deceased to commit suicide and, therefore, the allegations do not constitute abetment of suicide

within the meaning of Section 305 IPC. It is next submitted that no recovery is to be effected from the applicant or at her instance and she is not required for the purpose of custodial interrogation and in these circumstances when the petitioner is ready to join the investigation, no useful purpose would be served by sending her to judicial custody.

12. It is further submitted that the paramount consideration of bail are the availability of the petitioner to face trial, and in the instant case, there could be no such apprehension about the petitioner evading her trial as she is a permanent resident of the address given. It was lastly submitted that petitioner, being a teacher, has deep roots in the society and, therefore, she be granted anticipatory bail.

13. On the other hand, Id. APP for the state has opposed the anticipatory bail application on the ground that the offence committed by the applicant is serious in nature. The photographs and suicide note of deceased clearly indicate that the school teachers particularly the petitioner abetted in committing suicide by the deceased. Deceased has categorically mentioned the name of the petitioner in the suicide note and there is no reason to disbelieve the

version of the deceased it being a dying declaration. The needle of suspicion clearly points out towards the petitioner and in order to elicit the truth, custodial interrogation of the petitioner would be necessary. Ld. APP has, therefore, prayed for dismissal of the anticipatory bail application.

14. Apart from the arguments of learned APP for the State a status report was also filed by ACP/SOS-1/ Crime Branch, Delhi and the same is reproduced here:-

Facts of the case:-

An information vide DD no. 27A was received in PS Inderpuri on 01.12.2018 informing that deceased ' X ' (12 years) D/o Ms. Kamal Rathore had been brought dead to RLKC Metro Hospital by her mother with alleged history of hanging.

During the course of enquiry, the place of hanging i.e. H.N.. F-83, F Block, Inderpuri was inspected by the Crime Team and photographs were taken. One piece of chunni(parrot green colour) was found hanging from the ceiling fan and the other piece of chunni was lying on the bed which was taken into possession through seizure memo. One notebook was lying on the bed and on examination of notebook, it was found that it contained a suicide note. The notebook containing suicide note of the deceased was taken into police possession through

seizure memo. The relevant content/note of suicide note is being reproduced here as under:-

"Vo teachers app ko ja bhi Bola di vo sab jhute ha, mujhe pata ha appsab unki hi batt mano ja, that is why am committing sueside, please rona mat pls bye. That is why maa ajj school nahi gauya buye, mujha 6 class ka batcho na fasaya ha, ya mari pouri class to pata ha, because of my class teacher Arti Ma'am and Ritika Ma'am, bye I love you all last time for me 3:30 bye"

"Mummy and Nani I hate tears bye app jasi family har kisiko mila, mummy rona mat or nahi ko bhi mat rona dena app donoka eyes ma asu acha nahi lagaga, bye mummy bye bye nani I am going to die bye"

During the examination of the body at RLKC Metro Hospital, it was noticed that words/note were written on the palms and hands(photographs of the hands and palms were taken) of deceased X which is being reproduced here as under:-

On Right palm -"I love you mummy and nani"

On left hand -"Jai Shri Krishna I am coming last 4.00 bye"

On left palm -"mara suside kji khabar school tak zarur pahuchana, bye world"

On 01.12.2018, the dead body of deceased was shifted to Dr. RML Hospital. On 02.12.2018, post mortem of the deceased was conducted at Dr. RML Hospital Mortuary vide PM No. 931/18. As per PM report, the cause of death was opined as, "**The**

cause of death to the best of my knowledge and belief is asphyxia due to ante-mortem hanging."

During the course of the enquiry, answer sheet of English examination of X was obtained from school as admitted handwriting. The suicide note and the admitted handwriting of deceased has already been deposited with FSL Rohini for examination and expert opinion. The report in this regard is pending.

Registration of case:-

In pursuance of the order dated 11.02.2019 passed by the Hon'ble Court, above mentioned case was registered on 15.02.2019. Investigation of the case has been transferred to Crime Branch, SOS-!, Prashant Vihar order dated 01.03.2019.

Investigation conducted by PS Inderpuri:-

With regard to the investigation conducted by PS Inderpuri during the inquest proceedings with respect to the death of deceased, detailed status report of 42 pages along with a CD has already been filed in the Hon'ble Court on 10.01.2019, in compliance to the order dated 21.12.2018 under the signatures of Joint CP/Western Range.

Investigation conducted by Crime Branch:-

On receipt of investigation, the same was entrusted to SI Yograj who visited and re-inspected the spot. On 09.03.2019, SI Yogesh examined two children from the neighbourhood of deceased X namely **Master Harsh(aged 11 years)** S/o Girdhari Lal R/o F-87, 1st Floor, Budh Nagar, Inderpuri and **Ms. Shivani**, aged 16 years D/o Ajay Kumar R/o F-86,

Ground Floor, Budh Nagar, Inderpuri. Shivani stated that on 30.11.2018, X had separately told her that she had been scolded by her class teacher in front of the entire class. She further stated that X had told her that her **Biology teacher had called her characterless.** Statement of Harsh was recorded by Hon'ble Court of Ms. Vasundhra Chhaunkar, MM Patiala House Courts **u/s 164 Cr.P.C.** wherein he stated that "on 30.11.2018 at 6 o'clock in the evening when I went to play with my friends, saw that X was sitting outside the door of his house. I asked her to play with us, she started crying and said that **the class teacher told her why don't you die being characterless. Bio teacher called her in the bio lab and said that you are spoiling the name of your parents, and die, class teacher spoke in front of all children of class, there was only mam in the bio lab.** She said that she is very sad and she was crying. We said no matter tell all the matter to your mother. She said that I will tell my mother myself. Then we went home after playing. The next day, again I went home from school then she said, she will not play now and you will never see her again. **She was saying that she was going to die herself in the school washroom but her best friend stopped her again.** On 01.12.2018 when I came home from tuition, there was a lot of crowd near her house, all were trying to open the doors but could not open. After that they went inside through window and found her hanging. It was written on her hand that this thing must be told in her school. She had also written the letter. She had told me three times before that her mam in school used to say such thing. She also told her mother. Her mother told her that next year she will change her

school. From childhood, we used to play together. She was studying in the 7th class".

In his statement u/s 164 Cr.P.C., Harsh corroborated his statement recorded u/s 161 Cr.P.C. and stated that (you are spoiling name of your parents, you die) which he did not mention in his statement u/s 161 Cr.PC

Later on the request of complainant, further investigation of the case was transferred to W/SI Khushbu Yadav. The complainant also requested to recorded statements of key witness children at their homes instead of the school.

Examination of the Complainant, petitioner:-

That during the course of investigation, SI Khushboo Yadav recorded statement of victim's mother complainant u/s 161 Cr.P.C. in which she stated that her daughter X used to complaint about her class teacher and biology teacher. X told her that behavior of both teachers was not good as they used filthy language with her in class. Moreover, they called her a useless child, black spot and burden on earth and that she should die in presence of all class students. In the month of September 2018, she received a call from her daughter's school landline number on her mobile no. 9818557717. The child was weeping over the phone and told that mumma bring my notebook as her science teacher was very angry with her. She also spoke with X's biology teacher who was very angry with the child and asked her to bring the note book. **When she attended the PTM, she met both the teachers personally and requested them to handle the child politely and asked them to inform her in case there was any problem but**

not to misbehave with the child. On 30/12/18 X told her that there was no complaint from the teachers, as well as from the school authorities, regarding her daughter X, till X's death. **Her child died due to misbehavior of X's biology teacher (Ritika) and class teacher (Arti).**

That on 03.04.19, SI Khushboo recorded the statement u/s 161 Cr.P.C. of friends/classmates of X i.e. **Vani, Ritvika, Shrishti and Parth** at their residence in the presence of their parents as requested by victim's mother. **Vani aged 13 years d/o Jitender** in her statement u/s 161 Cr.P.C. stated that on 30.11.2018, when they were returning from the dance class, deceased X told her that Ritika ma'am had asked her to come to the biology lab. She also accompanied X to the Biology lab, where Ritika ma'am asked her to leave. When X came back from biology lab, she sat with her head down on the bench. When she asked X about Ritika ma'am. She stated that Ritika ma'am had scolded her and had asked her why she has been chatting with Parth. She also stated that Ritika ma'am had told her to tell all these things to her class teacher Arti ma'am. Deceased X was very sad when she left school that day.

That in his statement recorded u/s/ 161 Cr.P.C. **Parth** aged 11 years s/o Rishipal Uttam stated that in November 2018, when they were returning from a school trip, they were happy and X was sitting on the adjourning seat in the bus. X didi gave her mobile number to him and later on sent him a Whatsapp message (hi). He was also Replied 'hi' on Whatsapp. He was not friendly with X and did not talk much with her. Ritika ma'am

had directed him to focus on his studies rather than things like Whatsapp chatting.

That is her statement recorded u/s 161 Cr.P.C. **Shrishti** aged 13 years d/o Sh. Omprakash, stated that on 30.11.2018, X had told that Ritika ma'am had asked her to meet her in the biology lab. X went to the biology lab after the dance class along with Vani but Ritika ma'am had sent Vani back. When X came back from the biology lab she sat and put her head down on the bench. She was sad and said that Ritika ma'am had scolded her and had asked her why Parth follows and chats with her. She also said that Ritika ma'am had asked her to tell all these things to her class teacher Arti ma'am in the math lab. When she came back she said that Arti ma'am also scolded her and said that she knows everything and will call her parents. After X's death Ritvika told her that Ritika ma'am had called X character less and X was going to washroom to commit suicide, however, she had neither seen the incident nor had X told her about it.

That in her statement recorded u/s 161 Cr. P.C. **Ritvika** Aged 13 years d/o Sh. Deepak Verma, stated that X was her classmate but she was not her best friend. She had met X for the last time in school during the annual day function preparations. She did not know anything and neither did she tell anyone anything regarding X.

That During the investigation, on 04.04.2019, SI Khushboo visited Gyan Mandir Public School, Naryana Vihar and interacted with the classmates/friends of victim X, collectively. They stated that Ritika ma'am was their biology teacher and used to

scold the students regarding studies. Arti ma'am was their class teacher and used to scold them when they created nuisance in the class room but none of them stated that Ritika ma'am or Arti ma'am had ever called X a characterless or useless child in front of them. However, some students stated that one day Ritika ma'am had scolded X for not bringing her biology note book.

During investigation, when the classmates of deceased namely **Vani and Shrishti** were examined u/s 161 Cr.P.C., they had stated that Ritvika had told them that Ritika ma'am had called X a characterless child due to which, she was running towards school's girl washroom to commit suicide but students had stopped her. When **Ritvika** was examined u/s/ 161 Cr.P.C., she did not corroborate this fact and stated that she did not know anything in this regard, nor had she spoken about this with anyone.

That since petitioner raises allegations on previous IO for not recording the exact wording as deposed by the witnesses, she had requested for change of IO. She agreed to get statements videographed, hence, statement recorded by SI Khushboo have also been videographed.

That during further investigation of the case, the DVR of the CCTV of school was seized by W/SI Khushboo Yadav on 04.04.2019 and same has been deposited with FSL Rohini on 05.04.2019.

That the FSL result with regard to the suicide note and the words found written on the body of deceased is still pending from the FSL Rohini. The result of CCTV footage analysis is also awaited.

That accused Ritika had applied for anticipatory bail before Ld. Court of Sessions and the same was dismissed on merits on 25.03.2019.

15. In support of her case, learned counsel for the petitioner has referred to the following case law:-

1) Ramesh Kumar vs. State of Chhattisgarh, 2001(4)RCR(Crl.) 537;

2) Siddharam Satlingappa Mhetre vs. State of Maharashtra and Ors.2010(12) SCALE 691;

3) State v. Muthuraj & Anr., Crl.A(MD) No. 279/2009;

4) Amalendu Pal @ Jhantu vs. State of West Bengal, Crl. A.No. 2091 of 2009.

16. This Court has gone through the judgments, relied upon by the Ld. Counsel for the petitioner. There is no quarrel with the proposition of law laid down therein. However these are clearly distinguishable on the basis of facts and circumstances stated therein.

17. I have heard the rival submissions and gone through the entire material placed on record.

18. It is mainly contended by the learned counsel for the petitioner that though name of the petitioner was found written in the alleged suicide note but no direct association or inference can be

drawn that the child has ever stated in her suicide note that the suicide was committed by her on the instigation of either the petitioner herein or the colleague of the petitioner Ms. Arti.

19. I have carefully perused the suicide note, photographs pertaining to the words written on the right and left palms and left hand of the deceased child and statement of witnesses recorded under section 161 Cr.P.C. Though, it is forcefully contended by learned counsel for the petitioner that there is no direct association of petitioner with the suicide committed by the deceased child but perusal of the suicide note prima facie reveals that deceased child has named her teachers Aarti and Ritika (petitioner herein). Deceased child has specifically mentioned the words in her suicide note *“because of my class teacher Arti Ma'am and Ritika Ma'am”*. This clearly indicates that something wrong must have happened with the deceased in the school/class. Master Harsh and Ms. Shivani in their statements have stated that on 30.11.2018, X had told them separately that she had been scolded by her class teacher in front of the entire class. Shivani further stated that ‘X’ had told her that **her Biology teacher (petitioner herein) had called her Characterless.**

In his statement recorded U/S 164 Cr.P.C. Master Harsh has further deposed that when he had asked X to play with them on 30.11.2018, she started crying and said that her class teacher has told her why don't you die being characterless. **Bio teacher had called her in the bio lab and said that you are spoiling the name of your parents, go and die.** The complainant, in her statement recorded under section 161 Cr.P.C. stated that her daughter X used to complaint about her class teacher and biology teacher. Deceased X told her that behavior of both teachers was not good as they used filthy language with her in the class. Apart from the above statements, it has also come on record that deceased child had been asking her mother to change her school for the last three months but her mother had told her that now most of the session is over and next year she would definitely change her school. The mental condition of the deceased child and her frustration due to the behavior of the teachers can also be judged from the message wherein she has written that "*mara suside ki khabar school tak zarur pahuchana, bye word*". These words were written by her on her left palm before suicide. Further, the FSLreport bearing no.

SFSLDELHI/143/QD/10/19SFSLDELH /6765/QD/604/19 dated 31.07.2019 with regard to the alleged suicide note in the notebook which was recovered from the spot runs as follows:-

"There is no divergence observed between the questioned and admitted writings and the aforesaid similarities in the writing habit are significant and sufficient and cannot be attributed to accident coincidence and when considered collectively they lead me to the above said opinion."

20. The material available on record, prima facie reveals that the deceased was compelled to take such a drastic step because of deep mental pain/hurt caused by the alleged misbehavior and hostile treatment extended to the deceased by the petitioner. It is highly improbable that a child of tender age would implicate her teacher falsely and without any reason. It is also very difficult to ignore the suicide note where the deceased child states that she has been falsely implicated by 6th standard students because of her class teacher Arti and petitioner Ritika. In the opinion of the Court, prima facie there are serious and direct allegations of abetment to suicide against the petitioner which are difficult to ignore.

21. Ld. APP for the state has relied upon Article 19 of the UN Convention on the Rights of Child 1989 (UNCRC) to which India is a signatory and which declares that any form of discipline involving violence is unacceptable. It lays down that children have a right to be protected from being hurt and mistreated, physically or mentally. Governments should ensure that children are properly cared for and protected from violence, abuse and neglect by their parents, or anyone else who looks after them. Article 28(2) of the same convention requires the state parties to take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

22. There can be no opposition from anyone regarding the above proposition that a child of tender age should be handled very carefully and he/she needs to be protected from every kind of hurt whether physical or mental. Unfortunately, the petitioner has failed to pay attention to this fact.

23. At the time of considering the bail application, the court has also to keep in mind the fact that applicant/accused is not in a

position to influence the witnesses or tamper with evidence. The petitioner is working as a teacher in the same school where incident has happened. The investigation is still in progress. The evidence collected so far does not prima facie suggest that petitioner has no role to play in the commission of suicide by the deceased child. The deceased has clearly named her in the suicide note and there are statements of other witnesses on record which reveal that harsh and bitter words were used by the petitioner against the child and she was called 'characterless'. As discussed earlier, such words can deeply hurt the mind of an innocent child and that is why she was compelled to take the extreme step of suicide. Thus, keeping in mind the nature of offence, statement of witnesses appearing on record and particularly, the apprehension expressed by the State about the likelihood of the witnesses being influenced and evidence being tampered with, this Court is not inclined to grant anticipatory bail to the petitioner. The Anticipatory bail application of the petitioner is, therefore, dismissed.

BRIJESH SETHI, J

OCTOBER 16, 2019

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