

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

217

**CRM-M-26708-2022
Date of decision: 07.07.2022**

KAILASH ALIAS SONI

....Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. A.D.S. Sukhija, Advocate
for the petitioner.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G. Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case bearing FIR No.91 dated 21.02.2021 registered under Section 306, 406, 420 read with Section 34 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) (offence under Section 467, 468, 471 and 120-B of the IPC were added later on and Section 34 of the IPC was deleted later on) at Police Station Meham, District Rohtak (Annexure P-1).

2. Briefly, the case of the prosecution registered on the statement of Atul son of Inderjit Singh is to the effect that his elder brother Himanshu, aged 28 years was a sugar patient and that he used to remain in constant shock after an insurance fraud suffered by his father in the year 2016 to the tune of Rs. 1.20 crores. It is alleged that he

received information on 21.02.2021 that clothes and mobile phone of his brother Himanshu are lying near the Well of Meham and the shoes are floating in the water. The clothes and mobile phone were found therein along with a suicide note. Body of the brother of the complainant was recovered from the said Well. About 05 persons were named in the aforesaid suicide note. Resultantly, the FIR in question was registered. The petitioner was not named in the said FIR.

3. Learned counsel for the petitioner *inter alia* contends that name of the petitioner figured for the first time in the disclosure statement of the co-accused namely Aaditya Kumar and as per the case of the prosecution against the petitioner, certain proceeds of the alleged fraud committed with the father of deceased had also been received by the petitioner. He, however, contends that there is no money trade or link evidence to connect the petitioner of having received any benefit thereof even though the prosecution alleges that an amount of Rs. 12 lacs had fallen to the share of the petitioner. He contends that an amount of Rs. 5 lacs was statedly recovered from the petitioner, however, the same cannot be labelled as an amount which is a proceed of the crime. He further contends that similarly placed accused persons namely Rahul, Aaditya and Karunesh have already been granted the concession of regular bail by the Additional Sessions Judge, Rohtak vide orders dated 28.01.2022, 30.05.2022 and 19.05.2022 respectively. He contends that even though similar benefits are alleged to have fallen to the share of the said co-accused persons as well, however, the recovered amount was lower as compared to the recovery allegedly effected from the petitioner as the said accused persons are stated to

have utilized the amount. Reference in this regard is made to the orders passed in the matter of Rahul Kumar in whose share a sum of Rs. 31 lacs is stated to have fallen and the recovery is only to the tune of Rs. 5,000/-. The period of custody undergone by the said accused was also at par with the custody already undergone by the petitioner in the present case. He further argues that a total of 04 FIRs have been registered against the petitioner out of which 02 FIRs bearing No. 624 of 2016 registered under Section 406 and 420 of the IPC at Police Station City Sirsa and FIR No. 179 dated 08.05.2017 registered under Sections 406 and 420 of the IPC at Police Station Sector-5, Panchkula have already been quashed vide orders dated 08.08.2018 passed in CRM-M-13537 of 2018 and order dated 04.04.2018 passed in CRM-M-38389 of 2017 respectively. Qua the other two cases the petitioner has already been granted concession of bail by the Court in FIR No. 1270 dated 20.08.2017 registered under Sections 406, 420, 467, 468, 471 and 120-B of the IPC at Police Station City Jagadhari as well as in FIR No. 69 of 2019 registered under Sections 420, 465, 468, 471 and 120-B of the IPC vide order dated 16.08.2019 passed by the Additional Sessions Judge, Sangrur.

4. Learned counsel appearing on behalf of the respondent-State of Haryana submits that recovery to the tune of Rs. 5.50 lacs has already been effected from the petitioner which shows that he had actively participated in creation of circumstances that ultimately led to the commission of suicide by the complainant's brother. He, however, could not controvert the fact that the other co-accused persons against whom similar allegations have been levelled have already been granted

the concession of regular bail.

5. Learned counsel appearing on behalf of the petitioner however controverts the aforesaid submission by stating that the alleged fraud, the proceeds whereof are stated to have been shared by the petitioner, had taken place in the year 2016 and that too with the father of the petitioner who has not made any complaint of any nature whatsoever. The offence and suicide had taken place in the year 2021 and there is no relationship of any overt act or omission attributed to the petitioner that would have aided, abetted or instigated the deceased Himashu to commit suicide and as such, in the absence of any proximity of any overt act or omission on the part of the petitioner, the liability cannot be attached to the petitioner for having aided or abetted the deceased Himanshu in committing suicide.

6. I have heard learned counsel appearing on behalf of the respective parties and have gone through the record with their able assistance.

7. Without examining the merits of the instant case and taking into consideration the period of custody already undergone, the concession of bail already granted to the other similarly placed accused persons and also the stage of the investigation, I deem it appropriate to enlarge the petitioner on bail to the satisfaction of the trial Court.

8. The instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing requisite bail bond/surety bond to the satisfaction of the Trial Court/Duty Magistrate, concerned.

9. It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner

directly or indirectly.

10. The observation made hereinabove shall not be construed as an expression on the merits of the case and the trial Court shall decide the case on the basis of available material.

The petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 07, 2022
vishal sharma

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>