

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

(I) **CRM-M-30410-2019 (O&M)**
Date of Decision:- 2.2.2022

Sunil ... Petitioner

Versus

State of Haryana ... Respondent

(II) **CRM-M-30701-2019 (O&M)**

Satish Kumar ... Petitioner

Versus

State of Haryana ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. S.K.Garg Narwana, Senior Advocate with
Mr. Vishal Garg Narwana, Advocate,
for the petitioner in CRM-M-30410-2019.

Mr. Arjun Sheoran, Advocate,
for the petitioner in CRM-M-30701-2019.

Mr. Rajiv Sidhu, DAG, Haryana.

Mr. Kunal Dawar, Advocate, for the complainant.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. This order shall dispose of the above mentioned two petitions wherein petitioners Sunil and Satish Kumar, seek grant of anticipatory bail in a case registered vide FIR No. 70, dated 18.4.2019, Police Station Bajghera, District Gurugram, under Section 306 and 34 IPC.
2. The FIR in question was lodged at the instance of Rajbir Tyagi s/o Sh. Satbir Tyagi wherein it is alleged that their family is into business of supplying building material and that they all used to go to their office in New Palam Vihar. It is alleged that complainant's younger brother Rajesh was also into the same business. They had employed one Sanjay to look after the clerical work in the office and who had also been entrusted with the key of the office. It is alleged that on 18.4.2019, Rajesh went in the morning to visit the supplier Satish and Sunil as an amount of Rs.3 lakhs was due to be paid by Sunil and another amount of Rs.16.70 lakhs was due to be paid by Satish to the deceased. It is alleged that the said persons had been dilly dallying the matter and had challenged the deceased to do whatever he desired and on account of which the complainant's brother Rajesh committed suicide.
3. It is further the case of prosecution that a suicide note was also recovered from the clothes of the deceased, the gist of which reads as follows:

“I am going today. Ram Ram to Papa, uncle. A sum of Rs.16,00,520/- are due to be paid by Satish and a sum of Rs.3 lakhs is to be paid by Shriram. A sum of Rs.1 lakh is to be paid by Mahesh Sharma and Rs.10.90 lakhs are to be recovered from Joginder. Since, I am fed-up, therefore, I have taken this step. Neither I have given any money to anyone nor have received. Ram Ram to all.”

4. Learned counsel representing the petitioners have submitted that they have falsely been implicated in the present case and that apparently the deceased had committed suicide being under some kind of depression and that even if it is assumed that there was some kind of monetary transaction between the deceased and the petitioners, the same was professional in nature and that the petitioners cannot be attributed any kind of abetment in respect of commission of suicide by the deceased Rajesh. It has been submitted that in fact it is the deceased who owed some amounts to various persons including the petitioners and being unable to pay, having suffered losses, he took the drastic step of committing suicide. Learned counsel have however, submitted that the petitioners in order to prove their bonafides are willing to deposit the amount allegedly misappropriated by them before the trial Court and to cooperate with the investigation in every manner.
5. Opposing the petitions, learned State counsel assisted by learned counsel for the complainant has submitted that during the course of investigation it has been found that there indeed were business transactions between the firm Bhola Trading Company of the

deceased and the accused and some others and that some amounts were due to be paid to Bhola Trading Company.

6. Learned State counsel has however, informed that pursuant to interim directions the petitioners have since joined investigation.
7. I have considered the aforesaid submissions addressed before this Court.
8. The allegations against the petitioners are broadly to the effect that deceased had committed suicide as the petitioners were not returning the amount which was due to be paid by the petitioners to the deceased. While an amount of about Rs.3 lakhs is stated to be due to be paid by petitioner Sunil, another amount of approximately Rs.16 lakhs is stated to be due to be paid by Satish Kumar. The factum of there being business transactions amongst the deceased and the accused is not disputed. It is also not in dispute that there were also business transactions amongst the complainant and the deceased. As per the Affidavit filed by Sumer Singh, Deputy Commissioner of Police, West, Gurugram, an amount of Rs.30,33,461/- was shown to be outstanding as on 31.3.2019 against M/s Sharma Trading Company for which bills had been issued through Bhola Trading Company. Similarly another amount of Rs.3,60,129/- was shown to be outstanding as on 31.3.2019 against M/s Vinayak Builders and for which bills had been issued through Bhola Trading Company. Another amount of Rs.2,58,073/- is shown to be outstanding against M/s Sharma Trading Company and M/s Vinayak Builders which was

shown in Rajesh Tyagi's books and for which bills had been issued through Bhola Trading Company. It has further been deposed therein that although the complainant Rajbir stated that another amount of Rs.11,41,873/- was due to be paid for supply of Jamuna Sand when Bhola Trading Company was not even registered in the year 2017, but infact an amount of Rs.8,83,800/- was found to be credited in the account of deceased Rajesh and that it is on account of the said payment that the balance amount of Rs.2,58,073/- (as indicated above) is shown to be outstanding towards Satish. There is reference to some other transactions as well and ultimately in para No.11 of the said affidavit it has been concluded by the Deputy Commissioner of Police, Gurugram, as follows:

“11. That after hearing both the parties, the deponent has come to the conclusion that the record produced by both the parties requires verification from the quarters concerned and the amount submitted by both the parties appears to be true. However, the amount shown by the complainant i.e. Bhola Trading Company becomes due from the accused/petitioner and the amount shown due towards complainant by the petitioner has not been supported by proper documents. However, the matter needs thorough investigation through investigating officer on the basis of documents produced by both the parties.”

9. Having regard to the aforesaid factual position particularly that there had been some kind of business transactions amongst the parties and that the deceased had apparently committed suicide on account of some losses, it will certainly be a moot question as to whether the

petitioners who were having business transactions with deceased can be said to have abetted, the commission of suicide by the deceased Rajesh when apart from the business transactions there is no other evidence to establish the allegations of abetment against the accused.

10. Without commenting anything any further on merits of the case and while keeping in view that the petitioners have already joined investigation, both the petitions are hereby accepted and interim directions issued by this Court vide order dated 19.7.2019 and 26.8.2019 are hereby made absolute subject to the condition that the petitioners shall join investigation as and when called upon to do so and cooperate with the Investigating Officer and shall also abide by the conditions as provided under Section 438 (2) Cr.P.C.
11. The aforesaid order shall, however, be subject to the petitioner-Sunil shall depositing an amount of Rs.3 lakhs and petitioner-Satish Kumar depositing an amount of Rs.16.70 lakhs before the trial Court within three weeks from today. Upon such amounts being deposited, the trial Court/Illaq Magistrate shall get the same invested in some FDR with a specific direction to the Bank Manager concerned not to entertain any request for encashment except under an order of the Court. In case, the petitioners are found innocent and are acquitted and such acquittals attain finality, they shall be entitled to the proceeds of the FDRs. However, in case they are found guilty and their conviction attains finality, it is the complainant who shall be entitled to the proceeds of such FDRs.

12. A photocopy of this order be placed on the file of each connected case.

2.2.2022
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(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned	Yes / No
Whether Reportable	Yes / No