

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-1812 of 2023

Date of Decision: 25.07.2023

K. Ponnaiah

.....Petitioner

Vs.

State of Haryana

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Amit Choudhary, Advocate for the petitioner.

Mr. Randhir Singh, Addl. AG, Haryana.

DEEPAK GUPTA, J.

By way of this petition filed under Section 438 Cr.P.C, petitioner has prayed for grant of anticipatory bail in case FIR No.200 dated 22.05.2017 registered under Section 306 IPC at Police Station Urban Estate Rohtak, District Rohtak.

2. As per the allegations of prosecution, Balwan Singh committed suicide by consuming some poisonous substance on 28.02.2017. Just before his death, he had uttered words “Suicide Note” to his son and then fell unconscious. He was taken to the hospital, where he expired. On 22.05.2017, Vikas son of deceased approached the Police along with suicide note of the deceased stating that while looking for the papers of the deceased for applying for pension, suicide note was found. He stated that his father was in tension for the last 3-4 months. He was investing money with M/s D.P.W.H.O., a company registered in Delhi. He had been told by his father many times that Members of the Company were harassing him a lot

for money. In the suicide note, deceased blamed petitioner, his wife Shravan Muthu, Kumar Vale, Brigadier Sukhvinder, his son and one Sanjeet to be responsible for his death. FIR was registered. During investigation, the FSL report confirmed the suicide note to be in handwriting of the deceased.

3. It is contended by learned counsel that prima-facie ingredients of Section 306 IPC are not attracted to the case. Attention is drawn to the fact that though deceased committed suicide on 28.02.2017, the FIR was lodged after much delay i.e. on 22.05.2017 without any plausible explanation; that petitioner has been falsely implicated without any specific allegations against him; that deceased and his family members had undertaken in MoU for settlement of their financial issues with DPWHO owned by the petitioner and that possession of the properties owned by the petitioner had been taken by the deceased. Learned counsel further contends that similarly placed co-accused Sanjeet, Sukhvinder and Taranjeet Singh have already been allowed bail by this Court.

4. Learned State Counsel has opposed the bail petition by submitting that as per investigation, deceased had invested ₹6.5 crore in M/s DPWHO, in which petitioner is the partner. Deceased had taken this money from his relatives and known persons. Details are given of ₹78 lacs paid to co-accused Sanjeet on different dates during July 2015 to March 2016. It is alleged that partners of the Company including petitioner have embezzled an amount of more than ₹6.22 crores from the deceased and did not return the said amount nor gave any flat to him.

5. Though it is conceded by learned State Counsel that as per the direction of this Court given on 13.01.2023, petitioner has joined the investigation but it is stated that he did not co-operate in the same, as he did not get recovered

the embezzled money. Attention is also drawn by learned State Counsel towards various FIRs registered against the petitioner under Section 420 IPC.

6. Refuting the afore-said contentions, learned Counsel for the petitioner has drawn attention towards the Memorandum of Understanding dated 30.08.2016 entered between the deceased and M/s DPWHO through the petitioner (Annexure P.2), giving him General Power of Attorney in respect of a four storey built up property bearing No.376 measuring 120 sq. yards situated in Nawada Housing Complex, Uttam Nagar, New Delhi. Further attention is drawn towards Will (Annexure P.3), GPA (Annexure P.4) and agreement to sell (Annexures P.5) executed by the petitioner.

7. Having considered the submissions of both the sides, this Court finds this to be a fit case for confirming the grant of interim anticipatory bail. Petitioner has already joined the investigation. It is nowhere mentioned in the police reply that custodial interrogation of the petitioner is required. Criminal proceedings cannot be used to convert them for recovery of any embezzled money, which is subject-matter of dispute having regard to the Memorandum of Understanding dated 30.08.2016, which had been executed between the petitioner and the deceased. Co-accused Sanjeet has already been allowed the benefit of anticipatory bail vide order dated 11.02.2021 in CRM-M-38968 of 2020 (O&M) (Annexure P.9). Another co-accused Sukhvinder Singh was allowed the same benefit vide order dated 09.11.2022 in CRM-M-45580 of 2022 (O&M) (Annexure P.10). Besides, it is highly debatable considering the given facts and circumstances if Section 306 IPC will be made out or not.

8. Having noticed all the facts and circumstances of the case, order dated 13.01.2023, whereby interim anticipatory bail was granted to the petitioner,

is hereby made absolute. However, it is made clear that petitioner shall keep joining the investigation as and when required by the Investigating Officer.

Disposed of.

July 25, 2023
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No