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

CRM-M-35046-2023

Date of decision: 27.07.2023

Vinod Sharma

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Anmol Dutt Sharma, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

1. Prayer in the present petition is for grant of regular bail to the petitioner in FIR No.14 dated 29.01.2023 registered under Section 306 of the Indian Penal Code, 1860 at Police Station Division No.1, Police Commissionerate, Jalandhar.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody since 31.05.2023 and even challan has not been presented and thus, the conclusion of the trial is likely to take time. It is further submitted that on 07.06.2022, Ex. MLA (Jalandhar North) had submitted representation to the Deputy Commissioner, Jalandhar for conducting investigation regarding the misutilisation of Government funds in the name of various societies and in the inquiry which was conducted in pursuance of the above complaint, various persons including the deceased Sh. Sushil Kalia and his son were found to have misappropriated the Government funds and two FIRs were registered in which the deceased was

named as an accused. It is further submitted that on account of the same, the deceased was under depression. It is contended that the anticipatory bail of the son of the deceased was finally rejected on 20.01.2023 and suicide has been committed by the deceased on 28.01.2023 and that the alleged suicide note is undated and even as per the suicide note, only allegation against the petitioner is that the deceased had to receive Rs.6.35 lacs from the present petitioner, regarding which, the petitioner had been blackmailing him. It is further contended that neither any date of having made any payment to the petitioner has been mentioned nor any act/incident has been stated more so with respect to the petitioner so as to constitute the offence under Section 306 read with Section 107 of IPC. It is argued that co-accused of the petitioner namely Jai Mohindru had approached this Court by way of filing a petition for grant of anticipatory bail bearing No.CRM-M-31371-2023 and a Coordinate Bench of this Court vide order dated 30.06.2023 was pleased to issue notice of motion and granted interim protection to said Jai Mohindru. It is also argued that one of the co-accused of the petitioner namely Raj Kumar Sharma has been granted bail by the Vacation Judge, Jalandhar vide order dated 14.06.2023 (Annexure P-5) and while granting the said bail, learned Judge had taken note of the fact that the prosecution had not denied the fact that the deceased along with his son was booked for embezzling Government money of Rs.10 lacs.

3. Learned counsel for the petitioner has further relied upon judgment passed by a Coordinate Bench of this Court in **State of Punjab Vs. Kamaljit Kaur @ Bholi and another** reported as **2008(2) RCR (Criminal) 562** and the judgment passed by Hon'ble the Supreme Court in

Gangula Mohan Reddy Vs. State of Andhra Pradesh reported as **2010(1) SCC 750**, in support of his arguments.

4. On the other hand, learned State Counsel has opposed the present petition for grant of regular bail to the petitioner and has submitted on instructions from SHO Navdeep Singh and ASI Gurjit Singh that the petitioner is involved in one more case and that he along with other persons are named in the suicide note.

5. Learned counsel for the petitioner, in rebuttal, has submitted that the petitioner has been granted the concession of anticipatory bail in the said case and has relied upon the judgment of Hon'ble Supreme Court in ***“Maulana Mohd. Amir Rashadi vs. State of U.P. and another”***, reported as ***2012 (2) SCC 382*** to contend that the facts and circumstances of the present case are to be seen and the bail application of the petitioner cannot be rejected solely on the ground that the petitioner is involved in another case. The relevant portion of the said judgment is reproduced hereinbelow:-

“As observed by the High Court, merely on the basis of criminal antecedents, the claim of the second respondent cannot be rejected. In other words, it is the duty of the Court to find out the role of the accused in the case in which he has been charged and other circumstances such as possibility of fleeing away from the jurisdiction of the Court etc.”

6. Keeping in view the abovesaid facts and circumstances, more so, the fact that the petitioner is in custody since 31.05.2023 and even challan has not been presented and thus, the conclusion of the trial is likely to take time and also the fact that the deceased namely Sushil Kalia and his

son were found to have misappropriated the Government fund and two FIRs were registered in which the deceased was named as an accused and even the anticipatory bail of the son of the deceased was rejected and it is the case of the petitioner that the said deceased was under depression and also the fact that in view of the submissions made by learned counsel for the petitioner, it is a debatable issue as to whether the offence under Section 306 read with Section 107 of IPC is made out in the present case or not which would be finally considered during the course of trial as this Court does not wish to give any opinion with respect to the same, lest it would prejudice the case of either of the parties, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, subject to him not being required in any other case.

7. However, it is made clear that in case, any act is done by the petitioner to threaten the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

8. Nothing stated above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail application.

27.07.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No