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

Sr. No.213

**CRM-M-60763-2022 (O&M)**

Mukesh Tyagi @ Monu Tyagi ..... Petitioner

VERSUS

State of Haryana ..... Respondent

**CRM-M-12643-2023 (O&M)**

Khan Kharik Badar ..... Petitioner

VERSUS

State of Haryana ..... Respondent

**Reserved on : 11.04.2023**

**Pronounced on: 19.04.2023**

**CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. Amit Arora, Advocate, for the petitioner
in CRM-M-60763-2022

Mr. D.S. Matya, Advocate, for the petitioner
in CRM-M-12643-2023.

Mr. Himmat Singh, DAG, Haryana

Mr. Yash Yadav, Advocate, for the complainant
in both petitions.

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**SUDHIR MITTAL, J.**

This judgment shall decide CRM-M-60763-2022 and CRM-M-12643-2023 as the same have been filed by accused persons in the same case viz. FIR No.2392 dated 13.12.2019, registered at Police Station Shivaji Nagar, Gurugram, District Gurugram, under Sections 306, 420, 467, 468, 471 read with 120-B IPC.

According to the contents of the FIR, one Om Prakash Khola made a complaint that on 12.12.2019, he received a phone call from Deep Chand (brother-in-law) that he had consumed poison. He alongwith his son reached his house to find him lying on his bed and vomiting. No other family members were present as they all gone to their village for some ceremony. Since, his condition was serious, he was got admitted to Medanata Hospital, where, he died. The said Deep Chand had committed suicide as money deposited by him in various chit fund companies has been mis-appropriated by them.

A suicide note was recovered, according to which, a sum of more than Rs.1 crore belonging to the deceased had been blocked in chit fund companies and was not being returned. Some people who were responsible for making the petitioner deposit money were named therein alongwith mobile numbers. A sum of Rs.28 lacs had been deposited in one account of IFMD Services within one month at the instance of one Rajbir Singh, Hyderabad. Said Rajbir Singh was demanding more money, although, he was to pay Rs.98 lacs. The suicide note is dated 12.12.2019.

During the course of investigation, it was found that the deceased had invested more than Rs.1.08 crores in various accounts. In the account of IFMD Services, an amount of Rs.28 lacs had been deposited which was in the name of one Khan Mubeen Rajvi who told the police that his son Khan Kharik Badar had constituted a firm by the name of IFMD Services and he alone was dealing with the account. Khan Kharik Badar was arrested and he disclosed the names of Mukesh Tyagi and Naseem Khan as the main conspirators. It also came to light that another firm in the name and style of IBR Savings was constituted at a premises in Bareilly which was leased from Khan Kharik Badar to Naseem Khan. The said lease/rent deed was fictitious as no rent was payable and had been executed only for the purpose of constituting a fake firm.

The present petitions have been filed for grant of regular bail as the bail applications filed by the petitioners have been dismissed by the trial Court.

Identical replies have been filed on behalf of the State in both cases. It has been stated that the suicide note was sent for forensic examination alongwith the clothes of the deceased. Chemical examination of the viscera was also done. The reports indicate that the suicide note is in the hand of the deceased and that viscera contained the poison aluminum phosphide which was also found on some of the clothes. One Amit Kumar has also been arrested and four other accused are absconding.

So far as, Khan Kharik Badar is concerned, he used to retain about 5% to 20% of the amount deposited in his account and the remaining was transferred into the accounts of Mukesh Tyagi and Naseem Khan. Details of money transferred from the account of IFMD Services have been given. There are two other pending criminal cases against Khan Kharik Badar, both involving offence of cheating and forgery and there are three other pending criminal cases against Mukesh Tyagi of similar nature. Some of these FIRs have been registered in Rajasthan and Uttar Pradesh.

**CRM-M-12643-2023 (O&M)**

**KHAN KHARIK BADAR VS. STATE OF HARYANA**

Learned counsel for the petitioner has submitted that no name was mentioned in the FIR. The suicide note also does not contain the name of the petitioner. It is not the case of the investigating agency that the petitioner was ever in touch with the deceased. Thus, it cannot be said that the petitioner enticed the deceased to deposit money nor can it be said that he abetted his suicide. In fact, co-accused, namely, Mukesh Tyagi has been found to be in touch with the deceased. He and Naseem Khan are the king-pins of the racket. They have utilized the business account of the petitioner for depositing ill-earned wealth. The petitioner is not responsible for their acts. He has been in custody for over six months as is evident from the custody certificate and thus, he deserves the concession of regular bail.

The submissions are mis-conceived. There is no dispute that money has been deposited in the account of IFMD Services, which according to the father of the petitioner, was being operated only by the petitioner. It has also been found that a huge sum of Rs.28 lacs was deposited in the said account and the petitioner used to retain a percentage thereof. There is also evidence to indicate that the suicide note was in the hand of the deceased and that he had committed suicide by poisoning himself being unable to bear the stress of non-return of huge amount of Rs.1.08 crores.

Thus, even though, the petitioner is not named in the FIR or in the suicide note, it would make no difference. The fact that he did not communicate with the deceased would also not make any difference. Money was actually received in an account being operated by him alone out of which he retained a percentage. Thus, he was fully aware of the fact that persons were being misled to deposit their hard-earned money and the same was being mis-appropriated. One death has already been caused on account of this operation and it cannot be said that the petitioner was not guilty of the offence of cheating or that the allegations against him do not amount to abetment of suicide. In any case, that would be seen by the trial Court at the time of the trial. At the stage of grant of regular bail, the argument cannot be accepted.

**CRM-M-60763-2022 (O&M)**

**MUKESH TYAGI @ MONU TYAGI VS. STATE OF HARYANA**

Learned counsel for the petitioner has submitted that the petitioner has also not been named in the suicide note. No direct transfer has been made into any of his accounts. Section 306 IPC is not attracted as there is no evidence that act of the petitioner led to commission of suicide by Deep Chand. The petitioner has been in custody for five months and seventeen days as is evident from the custody certificate. Thus, he deserves the concession of regular bail.

From the reply of the State which has been filed on the basis of investigation conducted till date, it emerges that the petitioner is one of the king-pins of the racket. There is evidence on record to show that money has been transferred from the account of Khan Kharik Badar to the account of the petitioner. The said account was in the name of IFMD Services. There is also evidence on record regarding constitution of a fake firm in the name and style of IBR Savings on the directions of the petitioner for the purposes of getting money deposited from gullible investors. Thus, it cannot be said that the petitioner is innocent merely because no money has been directly deposited in his account. Not being named in the suicide note, would also not make any difference because there is evidence to show that Deep Chand had deposited a sum of Rs.28 lacs in the account of IFMD Services and that a percentage thereof has been transferred to the account of the petitioner. IFMD Services is named in the suicide note and a perusal thereof shows that about Rs.98 lacs were promised to be paid to the deceased from the said account, but non-payment thereof led to commission of suicide by him. It is also evident from the record that there are three more criminal cases of similar nature pending against the petitioner and thus, he does not deserve the concession of regular bail, even though, he has been in custody for five months and seventeen days.

In view of the foregoing reasons, the aforementioned petitions have no merit. They are, accordingly, dismissed.

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

**(SUDHIR MITTAL)**
**JUDGE**

**19.04.2023**
Ramandeep Singh

Whether speaking / reasoned Yes
Whether Reportable Yes