

CRM-M-3082-2024
Date of decision: 12.02.2024

Surender Kumar MittalPetitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Abhishek Jindal, Advocate
for the petitioner.

Ms. Geeta Sharma, DAG, Haryana.

Mr. Kunal Dawar, Advocate for the complainant.

HARPREET SINGH BRAR, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No.699 dated 30.10.2023 under Sections 306/34 of IPC registered at Police Station City Ballabhgarh, District Faridabad, Haryana.

The brief facts of the case are that on 30.10.2023, an information was received regarding admission of Shekhar Bansal, resident of Flat No.203, God Gift Society in serious condition at Sarvodaya Hospital, Sector 8, Faridabad. On this, SI Shri Ram along with other police officials reached Sarvodaya Hospital where complainant Divesh Bansal presented a complaint and suicide note. It was alleged in the complaint that his father was running a Sanitary Hardware Shop on Milk Plant Road and he also occasionally used to sit with his father on the said shop. On 27.10.2023, Rajender Jahri son of Nandu, resident of Flat No.601 in the said society came at his shop and gave beatings to his father and threatened him to kill and also took away the keys of

the vehicle. The said incident was captured in the CCTV footage. His father had borrowed money from some persons namely, Rajender Jahri, Rajesh Singla, Raj Kumar Chawla, Jagdish Yadav and they were harassing his father. Due to torture given by the said persons, his father had committed suicide. Legal action was requested against the accused persons. On this complaint, FIR was registered under Sections 306/34 of IPC.

Learned counsel for the petitioner *inter alia* contends that the perusal of the FIR indicates that the petitioner is not named in the FIR and it is the case of prosecution that on 27.10.2023, co-accused-Rajender Jhari had gone to the shop of the complainant and given beatings to him and his father and took away the keys of the vehicle. However, in the suicide note, four persons were named and the petitioner is the uncle of the deceased who had borrowed money from the deceased. He further contends that no specific date or time was given which could prove the abetment as provided under Section 107 of IPC to make the petitioner liable under Section 306 of IPC and similarly situated co-accused, namely, Rajesh Singla has been granted anticipatory bail by this Court vide order dated 08.01.2024 passed in CRM-M-244-2024 titled as 'Rajesh Singla Vs. State of Haryana' (Annexure P-4) and another co-accused, namely, Sunil Kumar Yadav has been granted anticipatory bail by this Court vide order dated 29.01.2024 passed in CRM-M-4437-2024 titled as 'Sunil Kumar Yadav Vs. State of Haryana.' He further submits that the case of the petitioner is at par and the petitioner is suffering from serious heart ailment having 100% blockage in the artery and during judicial custody, he again suffered heart attack and was referred to the Department of

Cardiology, Safdarjung Hospital, New Delhi and on the basis of

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the medical report, the petitioner was granted interim bail vide order dated 01.02.2024 passed by this Court in CRM-4536-2024 in CRM-M-3082-2024.

Per contra, the learned State counsel opposes the grant of regular bail to the petitioner on the ground that in the suicide note, the name of the petitioner was specifically mentioned and the deceased (father of the complainant) had committed suicide because of the petitioner as the petitioner has taken Rs.11.50 lakhs from the deceased which has not been repaid to him, as such, he does not deserve the concession of regular bail.

A two Judge Bench of Hon'ble Supreme Court in '**Satender Kumar Antil v. CBI**' (2022) 10 SCC 51, with respect to prevailing conditions of undertrial prisoner in India has observed:

“6. Jails in India are flooded with undertrial prisoners. The statistics placed before us would indicate that more than 2/3rd of the inmates of the prisons constitute undertrial prisoners. Of this category of prisoners, majority may not even be required to be arrested despite registration of a cognizable offence, being charged with offences punishable for seven years or less. They are not only poor and illiterate but also would include women. Thus, there is a culture of offence being inherited by many of them. As observed by this Court, it certainly exhibits the mindset, a vestige of colonial India, on the part of the investigating agency, notwithstanding the fact arrest is a draconian measure resulting in curtailment of liberty, and thus to be used sparingly. In a democracy, there can never be an impression that it is a police State as both are conceptually opposite to each other.”

Having heard learned counsel for the parties and after perusing the

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record of the case, it transpires that two similarly situated co-accused, namely, Rajesh Singla and Sunil Kumar Yadav have been granted anticipatory bail by this Court vide orders dated 08.01.2024 passed in CRM-M-244-2024 titled as ‘Rajesh Singla Vs. State of Haryana’ (Annexure P-4) and 29.01.2024 passed in CRM-M-4437-2024 titled as ‘Sunil Kumar Yadav Vs. State of Haryana, respectively. Keeping in view the medical condition of the petitioner, this Court is inclined to grant the benefit of regular bail to the petitioner. The culpability, if any, would be determined at the time of trial. Keeping the petitioner in further detention without the prospect of the trial being concluded in the near future, would be violative of his rights under Article 21 of the Constitution of India.

In view the above, the present petition is allowed and order dated 01.02.2024 is hereby made absolute. Thus, without commenting upon the merits of the case lest it may prejudice the outcome of the trial, the petitioner- Surender Kumar Mittal is ordered to be released on regular bail during trial on his furnishing bail bonds/surety bonds to the satisfaction of Illaqa Magistrate/Trial Court.

Nothing observed hereinabove shall be construed as expression of opinion of this Court on merits of the case and the trial Court shall proceed without being prejudiced by observations of this Court.

(HARPREET SINGH BRAR)

JUDGE

12.02.2024

Neha

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No