

2026 PHHC 015775



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-56110-2025

Date of decision: 3rd February, 2026

Munfed Khan

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Nafeesh Ahmed, Advocate for the petitioner.

Mr. Neeraj Poswal, A.A.G., Haryana.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 35 dated 20.02.2025 registered under Sections 108, 318(4) and 61(2) of Bharatiya Nyaya Sanhita, 2023 (for short 'BNS') and Section 66(D) of IT Act, at Police Station Sushant Lok, District Gurugram.

2. The aforementioned FIR was registered on the basis of a written complaint submitted by the complainant Tara Chand on 20.02.2025, alleging that his elder son Satish Kumar aged 51 years used to work as an electrician in Bhavana Society, Gurugram. On 01.02.2025 also, he had gone on his duty but did not return. He made search for his son and came to know in the morning of 02.02.2025, that he had died by hanging himself in the basement

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of the society. He had got the post-mortem examination of his son done. Subsequently, he came to know that during the period from 26.01.2025 to till 30.01.2025, an amount of Rs. 78,210/- had been transferred from the bank account of his son in two different bank accounts and he also found a screenshot of some slip mentioning two mobile phone numbers and the writing made by his son that the holders of those phone numbers were responsible for his death. After registration of FIR, investigation proceedings were initiated. The cell phone of the victim was taken into possession by the police officials. During the course of investigation, it was revealed that the cell phone number 7206943893 was issued in the name of the present petitioner. He was nominated as an additional accused. He was arrested on 15.07.2025. On interrogation, he suffered disclosure statement admitting that in connivance with the co-accused, he had duped the victim for the aforementioned amount. On the basis of his disclosure statement, some other persons were nominated as accused but have not been arrested so far. After completion of investigation qua the petitioner, challan has been presented in the Court.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. He is in custody since 15.07.2025. He is not required for further investigation. The ingredients for commission of offence punishable under Section 108 of BNS are not at all attracted against the petitioner. Even the other offences have not been made out against him at all. There is delay in reporting the matter to the police, which has not been

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satisfactorily explained. The money transaction between him and the deceased was on account of their being neighbours and not due to any other reason. His further incarceration would not serve any useful purpose. It is, therefore, urged that the petitioner deserves to be released on bail.

4. Status report and custody certificate have been filed by respondent-State. Learned State counsel has argued that the allegations against the petitioner are serious in nature as in connivance with the co-accused, he duped the victim of an amount of Rs. 78210/- by making him transfer the aforementioned amount in other bank accounts including his own bank account. It was he who abetted the victim to commit suicide who even left a note that the petitioner (one of the accused) was responsible for his death. The petitioner does not have clean antecedents as another case was registered against him in the year 2014. There are chances of his committing similar offences or absconding if extended benefit of bail. Therefore, it is stressed that the petition does not deserve to be allowed.

5. This Court has heard learned counsel for the parties at considerable length.

6. The petitioner has been booked for and is facing trial for commission of offence punishable under Section 108 of BNS. In order to bring a case within the provisions of Section 108 of BNS, undoubtedly, there must be a case of suicide and in the commission of the said offence, the person who is said to have abetted the commission of suicide must have played an active role by act of instigation and doing certain acts to facilitate the

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commission of suicide. The prosecution must show a proof of direct or indirect act of incitement by the accused in commission of suicide. Allegation of harassment of the deceased by the accused does not suffice in the absence of any positive action on the part of the accused proximate to the time of occurrence which led to suicide, offence under Section 108 of BNS would not be considered to have been committed. It is also well settled proposition of law that to prove the offence of abetment, which is defined under Section 45 of BNS (*which is pari materia with Section 107 of IPC*), it must be the state of mind of the accused to commit a particular crime must also be visible so as to determine the culpability of his action, meaning thereby that there must be some *mens rea* and some material on record to establish that he or she had a guilty mind and in furtherance of that state of mind, the suicide by the victim was abetted. Reference can be made to ***Aranb Manoranjan Goswami vs. State of Maharashtra and others : 2020 SCC Online SC 964***, wherein it was observed by Hon'ble Supreme Court that in order to bring out an offence under Section 306 of IPC (*which corresponds to Section 108 of BNS*), specific abetment as contemplated under Section 107 of IPC on the part of the accused with an intention to bring out the suicide of the person concerned as a result of that abetment is required. It was also observed that the intention of the accused to aid or to instigate or to abet the deceased to commit suicide is a must for this particular offence under Section 306 of IPC. At this stage, the element of *mens rea* of direct abetment, which is a *sine qua non* for attracting the offence, does not prima facie emerge from the record. The petitioner is in

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custody for a period of over six months. It is only on thorough assessment of the evidence to be produced during trial that any conclusion as to commission of offence punishable under Section 108 of BNS can be drawn as against the petitioner. The subject offences are triable by Magistrate. Investigation stands concluded. There are no chances conclusion of the trial in near future as none out of twenty prosecution witnesses has been examined so far. No useful purpose would be served by detaining him in custody anymore. It is well settled proposition of law that bail is the rule and jail is an exception. It is also well settled that pre-trial incarceration should not be a replica of post-conviction sentence.

7. In view of the discussion as made above and taking overall view of the circumstances of the case but without meaning to make any comment on the merits of the case, this Court is of the considered opinion that the petition deserves to be allowed. Hence, the same is allowed and the petitioner is ordered to be admitted to regular bail subject to his furnishing personal as well as surety bonds to the satisfaction of learned trial Court.

8. Since the main petition has already been decided, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

3rd February, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |