

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3350 of 2017**

- Rajeev Kumar Gupta S/o Ramkhilawan Prasad Sahu, Aged About 32 Years R/o Road No. 5 / B, Shanti Nagar Ward, Block 11, Behind House No. 521, Supela, Bhilai, Police Station Supela, Tahsil & District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Chhawani, District Durg, Chhattisgarh.

---- Respondent

And**MCRC No. 3620 of 2017**

- Kamaldev Sao S/o Videshi Sao Aged about 47 years, R/o Ramnagar near Jahaj Building, near Hanuman Mandir Supela District- Durg (CG)

---- Applicant

Versus

- State Of Chhattisgarh Through: District- Durg, Chhattisgarh.

-----Respondent

For Applicant	: Shri BP Singh, Advocate in MCRC No.3350/2017.
For Applicant	: Shri Goutam Khetrapal, Advocate in MCRC No. 3620/2017.
For Respondent/State	: Shri Anil Pandey, GA

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****20.6.2017**

1. As both the MCRC arise out of the same incident and Crime No., hence, both are disposed of by this common order.

2. Heard the matter finally.

3. Learned counsel for the respective applicants would submit that the applicant Kamal Dev Sao is arrested on 14th March, 2017 and applicant Rajeev Kumar Gupta is arrested on 20th March, 2017 in connection with Crime No. 116/2017, registered at Police Station Chhawani, District Durg (CG) for the offence under Section 306/34 IPC. After investigation Police had filed the charge sheet which is pending before the Judicial Magistrate First Class, Durg (CG) as Cr. Case No. 2910/2017 and the matter is not yet committed.

4. As per allegations, about 1 year ago, deceased K. Appa Rao took loan of Rs.2,00,000/- from applicant Rajeev Kumar Gupta and Rs.1,20,000/- from Kamal Dev Sao for the marriage of his sister. The applicants pressurized the deceased to repay the loan, but the loan was not repaid. Ultimately, on 7th March, 2017 both the applicants met the deceased in his house and asked him for the return of loan. The deceased submitted his inability to repay the loan. Both the applicants pressurized him to pay interest anyhow on the loan amount, otherwise they will see him. On account of this, the deceased K. Appa Rao, hanged himself on 10th March, 2017. Son of the deceased K. Shyam Rao lodged report where he claims to be an eye witness to the incident dated 7th March, 2017.

5. Learned counsel for the applicants submit that there is no ingredient of abetment as formulated in section 107 IPC. There is no element of abetment by the accused. They simply asked for repayment of the loan taken from them since long. There is no suicidal note in the matter. The deceased had not reported the matter till his suicide to the police for any alleged illegal pressure of the applicant. The applicants are in custody for more than 3 months. The trial may take some time. In absence of any ingredients as required under Section 107 IPC, prima facie Section 306 IPC is not attracted for the purposes of convicting both the applicants. They will not commit any offence in future. Applicant Rajeev Kumar Gupta is a Sahukar, duly registered under the law, therefore, they may be granted bail during trial.

6. Per contra, learned counsel for the respondent opposed the bail applications and would submit that on the basis of continuous pressure and ultimate threat by the applicants on 7th March, 2017, the deceased hanged himself as he was unable to repay the loan or to pay the interest amount goes to show that it is a matter of abetment duly covered under Section 107 IPC, hence, both the MCRC may be dismissed.

7. I have heard the counsel appearing for the parties and perused the material.

8. Both the applicants are in custody since last 3 months. Applicant Rajeev Kumar Gupta is a registered Sahukar as reflects in the order passed by the Court below while deciding the bail application on 28.4.2017 in Bail Petition No. 691/2017. Prima facie for the purposes of consideration of bail to pursue the return of loan amount and or for payment of interest, may not be held the same under any ingredients as provided under Section 107 IPC and there is no suicidal note of the deceased in the matter. On due consideration, I am inclined to grant bail to both the applicants.

9. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

10. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in sum of Rs.50,000/- with one surety each in the like sum to the satisfaction of the committal Court/ trial court for their appearance before the said Court as and when directed till trial.

11. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicants do not cooperate in the trial; (iii) the applicants are

found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

A copy of this order shall be kept in MCRC No. 3620/2017.

Sd/

(Chandra Bhushan Bajpai)

JUDGE