

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3967 of 2017**

- Amit Kumar Jain @ Sheru S/O Pawan Jain, aged about 37 Years, R/o Sardar Patel Ward Mungeli, Police Station Mungeli, Tahsil & District Mungeli (C.G.).

---- Applicant

Versus

- State Of Chhattisgarh, Station House Officer, Police Station City Kotwali, District- Mungeli (C.G.).

---- Respondent

For Applicant	: Shri Akhil Mishra, Advocate
For Respondent/State	: Shri U.K.S. Chandel, Panel Lawyer
For Objector	: Shri Goutam Khetrapal, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****17.7.2017**

Heard on IA No. 1/17, application for assisting the prosecution filed on behalf of Shri Goutam Khetrapal, Advocate for the Objector Harmeet Singh Saluja- brother of the deceased.

2. On due consideration, IA No. 1/17 is hereby allowed. Learned counsel for the objector is permitted to assist the prosecution under Section 301 (2) of the Cr.P.C..

3. Heard the matter finally.

4. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.116/2017 registered in Police Station City

Kotwali, Mungeli, Dist.-Mungeli (C.G.) for the offence punishable under Section 306 of the IPC & Section 4 of Riniyo Ka Sanrakshan Adhiniyan, 1937.

5. Learned counsel for the applicant submits that the applicant has been arrested on 28.04.2017, after investigation, concerned police has filed charge sheet against the present applicant which is pending as Criminal Case No.523/17 before Chief Judicial Magistrate, Mungeli (C.G.). He would further submit that there is no suicidal note seized from the place of occurrence to prove the fact that deceased- Jagvinder Singh hanged himself. On an allegation that about 2 ½ years ago, the deceased has taken loan of 50,000/- from the applicant and on 02.02.2017 he informed his family members that as he was not in a position to pay interest for more than 2 and 3 months on the said principle amount, the applicant used to torture him and also gave him threat to assault him and also to send him on jail if the cheque given by Chatarpal in security is bounced. The family members made him understand that in the next morning they will talk to the applicant and will return his outstanding money. On 03.02.2017, before 8.30am the deceased committed suicide by hanging himself. He would further submit that when the family members collectively met the deceased and promised him that in the next morning they will return the outstanding loan amount thereafter, there is no reason for committing suicide by the deceased; and also the fact that present matter does not come under the ambit of Section 107 of IPC. He would also submit that the Charge sheet has already been filed; trial is likely to take some time

for its conclusion and the applicant will not commit any offence in future, and, therefore, the application may be granted bail.

6. Per contra, learned counsel for the respondent/State duly assisted by Shri Gautam Khetrapal opposes the arguments advanced on behalf the applicant and would submit that as the deceased was not in a position to give interest over the loan amount, he was threatened for assault and send him jail if the cheque given by the brother of the deceased is bounced. Looking to the entire facts narrated by the deceased himself to his family members and his suicide on the next day morning, he is not entitled to be released on bail.

7. Perused the entire material available on record.

8. Looking to the evidence of Harmeet Singh Saluja, Narendra Singh and Harshit Kaur @ Rajjo, brother and wife of the deceased recorded under Section 161 of the Cr.P.C. and upon consideration of the entire statements recorded and other facts & circumstances of the case, prima-facie this Court is of the view that all the facts of the matter is not covered under any of the provisions of 107 of IPC, consequently the bail application is allowed.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

10. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with two separate solvent sureties of Rs. 25,000/- to the satisfaction of Trial Court for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains 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.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE