

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1000 of 2019

1. Deepesh Saini S/o S.R. Saini, Aged About 33 Years, R/o Shivam Vatika, Mopka, Bilaspur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Chhura, District Gariyaband Chhattisgarh., District : Gariyabandh, Chhattisgarh

---- Non-applicant

MCRCA No. 1002 of 2019

1. Vivek Pandey S/o Shri Harishanker Pandey, Aged About 33 Years, R/o Road No.37, Quarter No. 5-B, Sector Bhilai Nagar, District Durg Chhattisgarh At Present Police Station Indagaon, District Gariyaband Chhattisgarh., District : Gariyabandh, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Chhura, District Gariyaband Chhattisgarh., District : Gariyabandh, Chhattisgarh

---- Non-applicant

For Applicants – Shri Surendra Singh, Senior Advocate with Shri Shashank Thakur and Shri Atanu Ghosh, Advocates.

For Non-applicant/State – Shri Roshan Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

20-08-2019

1. As both these applications arise out of the same crime number, i.e. Crime No.69/2019, registered at Police Station Chhura, District Gariyaband, Chhattisgarh for the offence under Section 306, 201, 34 of the IPC, they are being decided by this common order.
2. These applications have been filed by the applicants for grant of anticipatory bail as they are apprehending their arrest in connection with aforesaid crime number and offence.
3. It is submitted by learned counsel for the applicants that the applicants in both the applications have been falsely implicated in this case. Deceased Santosh Devar was apprehended for interrogation and while he was in custody

of the police he was taken for medical examination on 12-09-2018 to the Community Health Center in Chhura. The applicants in both the cases never intended that the deceased should commit suicide, on the other hand, they wanted to make recovery at the instance of the deceased. The postmortem report does not show any injury on the body of the deceased which is suggestive that the deceased was not subjected to any torture or beating. Therefore, the deceased in this case committed suicide for unknown reasons. Ingredients of abetment as it is defined under Section 107 of the IPC is altogether absent in this case. The applicants in both the cases are police officials. Placing reliance on the judgment of Hon'ble the Supreme Court in the matter of **M. Mohan Vs. State**, reported in 2011 (3) SCC 626, AIR 2011 Supreme Court 1238 it is prayed that these applicants be granted anticipatory bail. The offence registered under Section 306 of the IPC is wrongfully registered. If at all any case is made out against these applicants that would be under Section 330 of the IPC which is a lesser offence. Therefore, it is prayed that the applications may be allowed.

4. Learned counsel for the State/non-applicant opposes the applications and submits that the deceased was picked up from his house by the police officials on 04-09-2018 he was tortured and given third degree to give confessional statement. The deceased committed suicide in the intervening night of 13th and 14th of September, 2018. The judicial enquiry has been made regarding custodial death of the deceased and in which it is reported that offence under Section 306, 201, 34 of the IPC be registered against the applicants. Therefore, the offence committed is of much gravity. Hence, the applications may be rejected.

5. In reply it is submitted by learned Senior Counsel appearing for the applicants that the applicants had never intended that the deceased should die in such manner. The applicants were performing their duty by doing the needful for the investigation of the case.

6. Heard learned counsel for the parties and perused the case diary.

7. According to the prosecution case, the deceased Santosh Devar was apprehended for interrogation by police officials and the applicants were in-charge of the police station. In the judicial enquiry made and the report of the judicial enquiry it is mentioned that the deceased was in custody since 13 days before he committed suicide and he was daily tortured for making confessional statement. It is also mentioned that the claim of the applicants that the deceased was taken for medical examination before the day he died is a false statement as the said doctor has very clearly made statement that the deceased was never brought before him for examination and he is not the author of the said medical examination report. It is also mentioned in the report that the CCTV footage of the Police Station has also been tampered with. On this basis it was concluded in the report that such circumstances were created because of which the deceased committed suicide.

8. After considering the submissions made by learned counsel for both the sides and perusing the entire case diary and also looking to the report of the judicial enquiry, I am of this opinion that this not a fit case for grant of anticipatory bail to these applicants.

9. Consequently, both these applications filed by the applicants under Section 438 of the Cr.P.C. for grant of anticipatory bail are rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge