

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1296 of 2019

- Nitesh Singhania S/o Shri Madan Lal Singhania, Aged About 36 Years, Residing at Bilaigarh, Police Station Bilaigarh, Tehsil Bilaigarh, District Baloda Bazaar Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Pithaura, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Respondent

MCRCA No. 1314 of 2019

- Sushil Agrawal S/o Late Shrikishan Agrawal, Aged About 52 Years, R/o 97, Jal Vihar Colony, Civil Lines, Raipur, Police Station Civil Lines, Raipur, Tahsil and District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Pithora, Tahsil Pithora, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Non-applicant

For Applicant – Shri Prafull N. Bharat and Shri Kashif Shakeel, Shri Rahul Agrawal, Shri Sumit Singh Rathore and Shri Sachidanand Yadav, Advocates (in MCRCA No.1296 of 2019),
Shri Rajkamal Singh, Advocate (in MCRCA No.1314 of 2019).

For Non-applicant/State – Shri Adil Minhaj, Govt. Advocate.
Shri Surfaraj Khan, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-10-2019

1. As both these applications arising out of the same crime number, i.e., Crime No.127/2019 registered at Police Station Pithaura, District Mahasamund, Chhattisgarh for offence punishable under Section 306, 34 of the IPC, they are being decided by this common order.
2. MCRCA No. 1296 of 2019 has been filed by applicant Nitesh Singhania and MCRCA No. 1314 of 2019 has been filed by applicant Sushil Agrawal.

These applications have been filed under Section 438 of the Cr.P.C. by these 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 these applicants have been falsely implicated in this case. No case is made out for abetment for commission of suicide against them. On plain reading of the suicide note of the deceased, it is reflected that these applicants had to pay some dues to the deceased and as they were not making payment of the same, he was harassed. The statement in the suicide note that he is holding responsible these applicants for his death by itself has no substance to constitute the offence. It is also argued that the applicants had been paying dues to the deceased regarding which they have proofs and documents have also been filed in that respect. Despite that the allegation that has been made against these applicants in the suicide note is totally false. Placing reliance on the judgment of Hon'ble the Supreme Court in the matter of Sanju Vs. State of Madhya Pradesh, **AIR 2002** SC 1998, it is argued that the deceased was himself heavily indebted and he was under great stress and depression, therefore, commission of suicide by the deceased cannot be said to be as a result of any abetment. Therefore, it is prayed that both the applications may be allowed.

4. Learned counsel for the State/non-applicant opposes the applications submitting that there is substance present in this case to make out offence under Section 306 of the IPC against these applicants, therefore, the applications may be rejected.

5. Learned counsel appearing for the objector after adopting the argument advanced by the State counsel submits that the submission made by learned counsel for the applicants is totally erroneous representation. The deceased was a petty contractor working under these applicants for completing a project.

There had been huge dues to be paid to the deceased by these applicants, but the applicants instead of making payment of the same, were constantly threatening the deceased making it clear that they had no intention to make payment. Therefore, the applicants had acted in such a manner to create a circumstance so that the deceased commits suicide. The act of these applicants covered under Section 107 of the IPC, according to which, when one or more persons engaged in a conspiracy for doing any act or illegal omission pursuant to which conspiracy offence is committed, then that is called abetment. It is also submitted that there is one more case registered against applicant Sushil Agrawal in another police station which shows that he is engaged in similar kind of criminal activities. Therefore, the applications may be rejected.

6. Wife of the deceased is present in person before this Court with her daughters and she has made statement that her husband was continuously threatened and harassed by these applicants by not making payment of the dues which were huge amount, because of which the deceased felt compelled to commit suicide.

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

8. Deceased Shyam Sundar Agrawal committed suicide by hanging himself on 27-07-2019. In the inquest procedure a handwritten paper was found on the body of the deceased in which it was written that these applicants had to make payment to the deceased and they were not making payment of the same, therefore, he held them responsible for his death.

9. On perusal of the suicide note and other material present in the case diary, it is found that the claim of the deceased regarding receiving payment from these applicants was not being satisfied by these applicants, because of which he was harassed and frustrated. There is no evidence regarding any overt or covert act on the part of these applicants to show that they had been engaged in some kind of conspiracy so that a circumstance is created for

commission of suicide by the deceased. Therefore, for these reasons I am of this opinion that it is a fit case for grant of anticipatory bail.

10. Accordingly, both the anticipatory bail applications are allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer.

These applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

11. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge