

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case (A) No.456 of 2021

Rohit Sharma, S/o Late Shivram, aged about 46 years, R/o Pratapganjpara,
Jagdalpur, District Bastar.

---- Applicant

Versus

State of Chhattisgarh, through the Station House In-charge, Police Station
Kotwali, Jagdalpur, District Bastar (C.G.)

---- Non-applicant

For Applicant: Mr. B.P. Sharma, Advocate.
For Non-applicant: Mr. H.S. Ahluwalia, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

21/05/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. Apprehending arrest in connection with Crime No.40/2021, registered at Police Station Kotwali, Jagdalpur, for the offence punishable under Sections 294, 323, 506 and 306 read with Section 34 of the IPC, the applicant has filed this application under Section 438 of the CrPC for grant of anticipatory bail.
3. Case of the prosecution, in brief, is that on 25-1-2021 at around 12 mid night, one Sanjeev Kumar Singh committed suicide by pouring kerosene oil on his body on account of the abetment caused by the present applicant and his sister Megha Singh, and thereby committed the offence. Firstly, on 28-1-2021, FIR was registered for offence under Sections 294, 323 and 506 read with Section 34 of the IPC and later-on, during investigation, offence under Section 306 of the IPC

was added, as Sanjeev Kumar Singh died on 1-2-2021.

4. Mr. B.P. Sharma, learned counsel for the applicant, would submit that the applicant has not committed any offence and he has been falsely implicated in the instant case. The only allegation against the applicant is that he and his sister both have asked the deceased to close his betel shop which he used to run late night. The applicant, his sister and their parents have already reported the matter to the police / municipal authorities bringing the misconduct on the part of deceased Sanjeev Kumar Singh not to run the betel shop late at night causing great disturbance to the peaceful stay of the present applicant and his sister at their house. He would further submit that at the most the only allegation is asking the deceased to close his shop at late night and further there is allegation of assault of the present applicant to the deceased. Taking the allegation as it is, no offence under Section 306 of the IPC is made out. The dispute is long standing between the applicant, his sister, the deceased and landlord Devi Shankar Mishra, S/o Durga Shankar Mishra. The applicant has been falsely implicated in the case and his sister Megha Sharma has already been released on bail by the learned Court of Session and his case is similar to that of his sister and therefore he is also entitled for the privilege of anticipatory bail. He would also submit that the deceased was suffering from loan liability and on account of COVID-19 situation, he could not repay the loan liability and therefore he was unhappy and that is the only reason due to which he is said to have committed suicide for which under no stretch of imagination, the applicant can be held responsible. The applicant is an architect, he is an young boy having bright future and if he is allowed to be arrested in the COVID-19 period, it will be great embarrassment to him and

therefore he be allowed the privilege of anticipatory bail.

5. On the other hand, Mr. H.S. Ahluwalia, learned State counsel, would oppose the application and would submit that in the night of 24-1-2021, the applicant and his sister assaulted the deceased pursuant to which proceeding under Section 107/116 of the CrPC was also initiated against the applicant and his sister, and dying declaration of the deceased has also been recorded on 25-1-2021 at 6 p.m. in presence of medical officer in Late B.R.K. Memorial Medical College & Hospital, Dimrapal, Jagdalpur in which the deceased has clearly stated that he was harassed by the applicant. Learned State counsel would further submit that suicidal note was also seized on 16-3-2021 in which the deceased has clearly stated that he was suffering from loan liability and apart from that the applicant has been named to harass him, and there is statement of brother of the deceased namely, Santosh Kumar Singh and his landlord Devi Shankar Mishra, S/o Durga Shankar Mishra, and also the statement of one Anil Naidu which categorically show that on account of harassment caused by the applicant, the deceased has committed suicide. Therefore, the applicant is not entitled to be granted anticipatory bail.
6. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the material available on record with utmost circumspection.
7. It is not in dispute that for the incident held on 24-1-2021 at late night, the police has initiated proceeding under Section 107/116 of the CrPC against the applicant and his sister and also against another person namely, Devi Shankar Mishra, S/o Durga Shankar Mishra, and dying declaration has also been recorded on 25-1-2021 and suicidal note has been seized on 16-3-2021. Dying declaration and suicidal note

were read out in the Court in which it appears that the deceased was also suffering from loan liability of ₹ 50,000/- and he was very much upset for the same. Statement of brother of the deceased – Santosh Kumar Singh was also read out in the Court which also suggests that the deceased was upset on account of loan liability against him which he could not repay obviously on account of the COVID-19 situation.

8. Considering the statement made in the dying declaration, suicidal note and further considering the statement of brother of the deceased – Santosh Kumar Singh and long standing existing dispute between the landlord of the deceased, the applicant and his sister, and the counter report made to various authorities by the applicant and his family, and the proceeding already initiated against both the parties by the police under Section 107/116 of the CrPC, particularly that co-accused Megha Sharma – sister of the applicant, has already been released on bail by the Court of Session and there is no challenge to that order granting bail to her, and also considering that the allegations made in the FIR against the present applicant are similar to that of co-accused Megha Sharma, I consider it a fit case for grant of anticipatory bail to the present applicant. Accordingly, the application is allowed.

9. It is, therefore, directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of ₹ 25,000/- with one surety in the like sum to the satisfaction of the concerned investigating / arresting officer. The applicant shall also abide by the following conditions: -

1. He shall make himself available for interrogation before the concerned arresting / investigating officer as and when required.
2. He 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.

3. He shall not act, in any manner, which will be prejudicial to fair and expeditious trial.

4. He shall also appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

10. Consequently, application for urgent hearing and application for hearing during summer vacation, stand disposed of. However, it is made clear that any observation in the order be not taken as opinion on merits of the matter.

Sd/-
(Sanjay K. Agrawal)
Vacation Judge