

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC (A) No. 700 of 2021

- Motu @ Virendra Kumar Nahata, aged about 56 years, S/o Lt. Shri Fulchand, R/o Ramadhin Marg, Rajnandgaon, Distt. Rajnandgaon (CG)

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Gunderdehi, District Balod (CG)

---- Non-applicant

For Applicant	:	Mr. Pragalbha Sharma, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

20/7/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.80/2021 registered at Police Station Gunderdehi, District Balod (CG) for commission of offence punishable under Section 306 r/w 34 of the Indian Penal Code, 1860.
2. As per case of prosecution, on 20.1.2019 Bhagwani Ram Yadav committed suicide in his house by hanging himself. During the course of investigation, suicide note of deceased was recovered based on which instant crime is registered against present applicant and five other co-accused persons.
3. Mr. Pragalbha Sharma, learned counsel for applicant submits that place of dispute/incident is village Gunderdehi, whereas present applicant has left village Gunderdehi in the year 2018 itself and shifted to Rajnandgaon. As per allegations, present applicant is having some relation with co-accused Kaushalya

Yadav, he used to visit her house and it is present applicant who had instigated co-accused persons for abusing the deceased and preventing him from selling his agriculture land. Other allegations are levelled against co-accused persons. He submits that there is no involvement of present applicant in commission of suicide by the deceased, hence he may be enlarged on anticipatory bail.

4. Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for the applicant. He read out contents of suicide note seized during the course of investigation as also statements of witnesses namely Lala Bhutda (witness of seizure of suicidal note), Sohan Mahobia, Fulsingh & Kesh Kumar, and submits that in the statements of aforementioned witnesses recorded under Section 161 CrPC there is allegation that present applicant used to visit house of co-accused Kaushalya Yadav, at the instance of present applicant, co-accused persons, under the influence of liquor, used to abuse deceased. He further submits that as per material available in case diary, there is *prima facie* involvement of present applicant in commission of instant crime, hence he is not entitled for the benefit of anticipatory bail under Section 438 of CrPC.
5. At this stage, Mr. Pragalbha Sharma, learned counsel for applicant submits that as co-accused Kaushalya Yadav was working under present applicant during his stay in Gunderdehi, therefore, he some time visited house to meet her.
6. I have heard learned counsel for the parties.
7. Taking into consideration the nature of allegations levelled in suicidal note seized by the police wherein there is no direct allegation that present applicant at any point of time had visited house of deceased, mounted pressure on him for selling his immovable property to present applicant; statement

of Dhamin Bai, widow of deceased Bhagwani Ram Yadav, recorded under Section 161 of CrPC, the deceased suffered paralysis in the year 2014, without commenting anything on merits of the case, I am of the view that present is a fit case where applicant should be granted anticipatory bail.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Arresting Officer. The applicant shall also abide by the following conditions :

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

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-