

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.782 of 2021

- Vikas Jain @ Vikki, S/o Shri Gotamchand Jain, aged about 45 years, R/o Bagbahara, Thana & Tehsil Bagbahara, Distt. Mahasamund (CG)

---- Applicant

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Tendukona, Distt. Mahasamund (CG)

---- Non-applicant

For Applicant	:	Mrs. Indira Tripathi, Advocate
For Non-applicant	:	Mr. Roshan Dubey, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

28/7/2021

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.108/2021 registered at Police Station Tendukona, District Mahasamund (CG) for commission of offence punishable under Section 306 of the IPC.
2. Case of the prosecution, in brief, is that deceased Rajeshwar alias Sonu Ogre was working in Jai Gurudev Travel Agency, Bagbahara, owned by present applicant. On 21.12.2021 at about 6.30 a.m. deceased Rajeshwar left his house stating that he is going to his work place. On the same day at about 3:00 p.m. he contacted in his house. Thereafter, he did not return home whole night and on 22.12.2020 he was found hanging in Mahua tree with muffler. During the course of investigation, police recovered currency note of Rs.50/- in which it is written that employer of deceased used to abuse him and give threats of life. Based on recovery of suicidal note written on currency note of Rs.50/-, instant crime is registered against present applicant.

3. Mrs. Indira Tripathi, learned counsel for applicant submits that deceased was under the employment of present applicant, who is running a travel agency. Deceased was in the habit of playing gamble due to which he had borrowed money from many persons and also misappropriated amount of travel agency of present applicant. Applicant has not abetted or instigated deceased in any manner to commit suicide. Except suicidal note containing allegation of hurling abuses and giving threat of life, there is no material against present applicant to connect him with instant crime. She further submits that for establishing charge under Section 306 of IPC, there should be proof of abetment as envisaged under Section 107 of IPC, which is missing in instant case. She places her reliance on the decisions of Hon'ble Supreme Court in case of **Ramesh Kumar vs. State of Chhattisgarh** reported in **(2001) 9 SCC 618**; **Sanju alias Sanjay Singh Sengar vs. State of MP** reported in **(2002) 5 SCC 371**; **M. Mohan vs. State** reported in **(2011) 3 SCC 626** and the order of this High Court dated 11.9.2014 in Cr. Rev. No.136/2014.
4. Mr. Roshan Dubey, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that the police had recovered suicide note written by deceased on currency note of Rs.50/- in which the deceased has mentioned the reason for committing suicide. In support of this contention, he read over the contents of FIR as also statements of wife, father and mother of deceased recorded under Section 161 of CrPC.
5. Heard learned counsel for parties and perused the case diary.
6. Perusal of suicidal note available in case diary would reveal that it only mentions that deceased is frustrated with his employer who used to abuse him on trivial issues and further few words as appearing in suicidal note "jaan se marne ka'. I have also perused statements of Dipak Ogre & Manish Kumar Ogre, brothers of deceased, recorded on 22.12.2020 when

incident was reported. They have stated in their statement that their brother was not having any dispute with anyone, he was indulged in gambling, he had taken some loan also and they have heard that their brother (deceased) had spent some amount of his employer also. They have shown their inability to tell as to why their brother had committed suicide by hanging himself.

7. Taking into consideration the facts and circumstances of case, nature of allegations against present applicant, material available in case diary, particularly statements of brothers of deceased recorded on the date of incident itself i.e. on 22.12.2020, without commenting anything on merits of case, I am inclined to grant anticipatory bail to present applicant.
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 Investigating Officer as and when required;
 - (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him / her from disclosing such facts to 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/-