

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 976 of 2021

- Smt. Prabha Sahu, Wd/o Late Rupendra Kumar, Aged About 41 Years R/o Shyama Prasad Mukherjee Ward, Sai Colony, Bhatapara, Police Station Bhatapara (City), District Baloda Bazar- Bhatapara (C.G.)

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station Bhatapara (City), District- Baloda Bazar- Bhatapara(C.G.), District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

For Applicant	: Shri Shri Pramod Kumar Verma, Senior Advocate with Shri Virendra Verma, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA

MCRCA No. 971 of 2021

- Jitendra Kumar Sharma, S/o Late Vinod Sharma Aged About 34 Years R/o Nayapara Ward, Bhatapara, Police Station And Tahsil Bhatapara, District Baloda Bazar - Bhatapara, Civil And Revenue District Baloda Bazar - Bhatapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Bhatapara (City), District Baloda Bazar - Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	: Shri Manoj Kumar Sinha, Advocate
For Respondent/State	: Shri BL Sahu, PL

MCRCA No. 986 of 2021

- Smt. Anjana Gupta, W/o Shri Santosh Gupta, Aged About 45 Years, R/o Subhash Ward, Bhatapara, Police Station - Bhatapara City, District - Balodabazar-Bhatapara (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Bhatapara (City), District - Balodabazar-Bhatapara (Chhattisgarh)

---- Respondent

For Applicant	: Shri Vaibhav A Goverdhan, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

19.08.2021

1. As above three bail applications arise out of same Crime number, they are being heard together and disposed of by this common order.
2. Applicants in above three bail applications have sought anticipatory bail under Section 438 of CrPC as they apprehend their arrest in connection with Crime No. 300 of 2021 registered at Police Station Bhatapara City, District Balodabazar-Bhatapara Chhattisgarh for commission of offenses punishable under Sections 306, 34 of IPC and 3/4 of Chhattisgarh Riniyonka Sanrakshan Adhiniyam, 1937.
3. Case of the prosecution, in brief, is that, on 09.04.2021, Smt Radhika Dubey committed suicide by hanging. Merg ws reported on the same day at about 3.15 pm by Adil Hospital. During the course of merg enquiry, son of deceased handed over one suicidal note on 11.05.2021. Written complaint was lodged by husband and son of deceased on 26.07.2021, making allegations against applicants that they were pressurizing the deceased for return of loan amount, extended by them to her and also threatening her that if loan amount is not returned, deceased would be dragged to Court. Based on written complaint, aforementioned crime was registered against applicant.
4. Applicants, apprehending their arrest, filed these anticipatory bail applications after rejection of their applications by the Court below.

5. Shri Pramod Kumar Verma, learned Senior Advocate for applicant- **Smt Prabha Sahu** would submit that as per allegations levelled against her, she extended hand loan of Rs.2 lakhs to deceased. Applicant also has taken some blank cheques and signature on some blank stamp papers. As per information supplied to learned counsel, no such document has been seized by Police. He submits that even as per allegations, applicant has not taken any illegal means for recovery of loan amount, but has only stated that she will drag the deceased to Court. As it is the applicant who extended loan to deceased, in default of payment, she stated that she will take legal proceedings. He submits that in the contents of written complaint, no ingredient for commission of offence under Section 306 IPC is present. No allegation of abatement or instigation to deceased to take such a step of committing suicide. Asking for return of loan advanced to deceased would not fall within the purview of instigation. Learned Senior Advocate in support of his submission, placed reliance of Hon'ble Supreme Court in case of **M Arjunan Vs the State Rep. By its Inspector of Police**, reported in **2019 AIR SCW 43**. Other offences alleged are bailable.

6. Shri Manoj Kumar Sinha, learned counsel for applicant- **Jitendra Kumar Sharma** would submit that he is adopting the submissions made by learned Senior Counsel. He submits that applicant extended hand loan of Rs.4 lakhs to deceased. He further submits that no suicidal note was recovered immediately after the incident from the spot. Complaint was lodged with an inordinate delay, only on 26.07.2021.

7. Shri Vaibhav A Goverdha, learned counsel for applicant- **Smt Anjana Gupta** would submit that he is also adopting the submissions of

learned Senior counsel and relied upon judgment passed in the matter of **Prakashchand Vs State of MP** reported in **2007 (1) CGLJ 9 (MP)**. He submits that allegedly applicant extended hand loan of Rs.2,75,000/- to deceased.

8. On the other hand, Shri BP Banjare, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that in written complaint, there is allegation of pressurizing deceased for refund of amount and also that they have taken blank cheques and signatures on stamp papers of deceased. FIR was registered based on written complaint of husband and son of deceased. However, he submits that during the course of investigation, Police seized one suicidal note presented by son of deceased on 11.05.2021. Learned State counsel read over the suicidal note and upon asking, he submits that name of present applicants is not mentioned in suicidal note of harassing and pressurizing the deceased in any manner. Name of one Amit Sharma and Ganesh Dhruv, is there in note, mentioning that deceased has taken loan from those persons.

9. I have heard learned counsel for the parties.

10. Taking into consideration nature of allegations levelled against present applicants; contents of suicidal note, which was handed over by son of deceased to Police on 11.05.2021, wherein no allegation is made against applicants herein; further, even in written complaint allegations levelled against applicants are that they were demanding loan amount handed over by them and further stating that in default, deceased will be

dragged to Court, without commenting anything on merits of the case, I am inclined to enlarge the applicants on anticipatory bail.

11. Accordingly, the applications are allowed and it is directed that in the event of arrest of applicants in connection with the crime in question, they shall be released on anticipatory bail by the Officer arresting them on their executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) each with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicants shall also abide by the following conditions:

- a) That the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- b) That the applicants 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 them from disclosing such facts to the Court or to any Police Officer;
- c) That the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) That the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma