

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1298 of 2021

- Sunil Kumar Bargah, S/o Shri Radheshyam Bargah, Aged About 20 Years R/o Village - Kotiya, Post - Bartori, Police Station Bilha, District Bilaspur Chhattisgarh
 - Hitesh Bargah, S/o Rajkumar Bargah, Aged About 20 Years, R/o Laxmi Chowk, Chingraipara Police Station Sarkanda, District Bilaspur Chhattisgarh
- Applicants**

Versus

- State Of Chhattisgarh, Through Police Station - Sarkanda, District Bilaspur Chhattisgarh
- Respondent**

AND

MCRCA No. 1355 of 2021

- Uttam Singh Bargah S/o Late Shri Dilharan Singh Bargah, Aged About 35 Years R/o Vinoba Nagar, Near Gayatri Mandir, Bilaspur, P.S. Tarbahar, District Bilaspur Chhattisgarh
- Applicant**

Versus

- State Of Chhattisgarh Through Police Station Sarkanda, District Bilaspur Chhattisgarh
- Respondent**

For Applicants	: Shri Sandeep Dubey, Advocate
For Respondent/State	: Shri Alok Nigam, GA

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

07.12.2021

1. As these bail applications are arising out of same Crime number, they are being disposed of by this common order.
2. Applicants have preferred these applications under Section 438 of CrPC for grant of anticipatory bail as they apprehend their arrest in connection with Crime No. 866 of 2021 registered at Police Station Sarkanda, District-Bilaspur, Chhattisgarh for commission of offense punishable under Sections 306 and 34 of IPC.

3. Case of the prosecution, in brief, is that, Pritam Singh, younger son of Dilharan Singh (deceased) has lodged a report on 22.06.2019 to the concerned Police Station mentioning therein that his father committed suicide in his house by hanging himself in between 21-22 June, 2019. During the course of investigation, Police recovered one suicidal note from pocket of deceased Dilharan Singh, which was sent to handwriting expert along with diary seized from house of deceased. In suicidal note, there are allegations of ill-treatment, harassment and also not permitting deceased to reside in his house, against applicants and other co-accused persons, who are relatives of deceased. Based upon report received by the Police from handwriting expert, FIR was registered against applicants and other co-accused persons.

4. Anticipatory bail applications filed before the Court below were rejected by impugned order.

5. Shri Sandeep Dubey, learned counsel for the applicants would submit that date of incident is intervening night of 21-22 June, 2019. Merg was reported to concerned Police Station on 22.06.2019 and during course of merg inquiry, one suicidal note was recovered from the pocket of deceased. It was sent to handwriting expert, based on expert report received on 29.08.2020, FIR was registered only on 21.07.2021, after lapse of about two years of incident and after 11 months after the date of report of handwriting expert. He submits that even if the contents of suicidal note are taken as it is, it shows that there is some dispute between applicants and deceased with regard to property. There is no allegation of abatement or instigation. Deceased was aged about 55

years and he was residing in separate accommodation situated at Atal Niwas, Chingrajpara, Bilaspur, whereas applicants are residing at different address. In the statement of complainant Pritam Singh, it has come that whenever deceased visited house of applicants, they harassed, ill-treated and also assaulted him, which cannot be the act of abating or instigating for commission of suicide. He also pointed out that Pritam Singh, who is real brother of applicant- Uttam Singh Bargah, has stated that there was some dispute between Uttam Singh Bargah and deceased with regard to not purchasing property in name of deceased. There is no material available to get the applicants connected in commission of crime as alleged. He also pointed out that in similar nature of allegations, other co-accused persons Kunti Bargah and Shitala Bargah were granted anticipatory bail by this Court vide order dated 07.09.2021 in MCRCA-1066 of 2021, hence, applicants may also be enlarged on anticipatory bail.

6. On the other hand, Shri Alok Nigam, learned State counsel opposing the submissions of learned counsel for the applicants, submits that there are specific allegations of ill-treatment, harassment and also assault of deceased levelled against applicants in suicidal note as also in statement of complainant, younger son of deceased Dilharan Singh. There is also allegation against Uttam Singh Bargah that he took Rs.5,00,000/- from deceased to purchase property in name of deceased, but he purchased property in his own name. There was quarrel between Uttam Singh Bargah and deceased prior to the date of incident. Hence, applicants are not entitled for benefit under Section 438 of CrPC.

7. I have heard learned counsel for the parties.

8. Considering entire facts and circumstances of the case, submissions made by learned counsel for the parties, further, age of deceased on the date of incident to be about 55 years, contents of suicidal note as well as statement of Pritam Singh Bargah, younger son of deceased, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicants.

9. 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 Investigating 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