

HIGH COURT OF MADHYA PRADESH

M.Cr.C. No. 36835/2020

(Hardas Ahirwar vs. State of M.P.)

PRESENT : HON.SMT.NANDITA DUBEY,J.(THROUGH VIDEO CONFERENCING)

Jabalpur : Dated 27.11.2020.

Shri Abhishek Arjaria, Counsel for the applicant.

Shri Sheetal Tiwari, Panel Lawyer for the respondent/State.

On due consideration, IA No.11533/2020, an application for taking additional documents on record, is allowed.

This is the first bail application filed by the applicant under Section 438 of Cr.P.C. for grant of anticipatory bail.

The applicant apprehends his arrest in connection with Crime No. 616/2020 registered at P.S.Itarsi, District-Hoshangabad for the offence punishable under Section 306 of the IPC.

As per prosecution, one Baijnath Ahirwar has committed suicide for the reason that the present applicant was insisting for repayment of the loan given by him to the deceased.

Learned counsel for the applicant submits that the applicant has been falsely implicated. He has invited attention of this Court to the financial documents filed along with the application which clearly show that applicant had given a loan of Rs. 5

Lacs to the deceased. There is also a promissory note on record which shows that the deceased had promised to repay the said amount within a period of three months. This promissory note was executed on 22.06.2020 in presence of a policeman, namely, Girish Kumar. It is submitted that since the deceased was unable to repay the amount, he has committed suicide. It is stated that earlier also deceased had tried to commit suicide. He was having a suicidal tendency as reflected from discharge ticket filed along with the application (IA 11533/2020). It is also stated that under no circumstances offence under Section 306 IPC is made out against the present applicant as the necessary ingredients of Section 107 IPC are missing. It is further submitted that there is no likelihood of applicant's absconding or tampering with the evidence. Lastly, it is submitted that applicant is ready to cooperate in the investigation and trial. He may be released on anticipatory bail.

Learned PL for the State has objected to grant of anticipatory bail and prayed for rejection of the application. However, he has fairly submitted that this is a case of loan transaction and looking to the documents on record, it seems that the deceased had failed to repay the loan amount.

Considering the documents on record as well as the case diary statement, *prima facie*, it is clear that there was loan transaction between the applicant and

the deceased. The deceased has failed to repay the amount as promised by him and due to financial stress he has committed suicide. *Prima facie*, on failure to repayment of loan due to which deceased had committed suicide, no offence under Section 306 IPC is made out against the present applicant as the necessary ingredients of Section 107 IPC as required for abetment, are missing. In view of aforesaid, without expressing any view on the merits of the case, this application is **allowed**.

It is directed that in the event of arrest, applicant **Hardas Ahirwar** shall be released on bail on his furnishing a personal bond in a sum of **Rs. 50,000/- (Rs. Fifty Thousand only)** with one surety in the like amount to the satisfaction of arresting officer.

This order will remain operative subject to compliance of the following conditions by the applicant:-

1. *The applicant will comply with all the terms and conditions of the bond executed by him;*
2. *The applicant will cooperate in the investigation/trial, as the case may be;*
3. *The applicant will not indulge himself in extending inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the Police Officer, as the case may be;*
4. *The applicant will not seek unnecessary adjournments during trial;*

5. *The applicant will not leave India without previous permission of the trial Court/Investigating Officer, as the case may be; and*

6. *If the applicant commits any offence while being on anticipatory bail, then this order shall automatically stand cancelled without reference to the Court."*

A typed copy of this order be forwarded by the Registry to the Office of the Advocate General and to Shri Sheetal Tiwari, learned Panel Lawyer, on their respective email addresses, for intimation to the police station concerned.

Certified copy/e-copy as per rules/directions.

(Nandita Dubey)
Judge

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