

IN THE COURT OF SH. CHANDRA SHEKHAR, LD.SPECIAL
JUDGE, CBI-19 (PC ACT), ROUSE AVENUE DISTRICT COURTS,
NEW DELHI

FIR No. 213/2020

PS: Neb Sarai (DIU)

U/s: 386/506/306/34 IPC

Harish Kumar vs. The State, NCT of Delhi

06.06.2020

Presence on 05.06.2020

(Through CISCO WEBEX Meetings)

Ld. Defence Counsel Sh. Ravi Drall for the applicant/
accused Harish Kumar.

Ld. Addl. Public Prosecutor Sh. Manish Rawat for the State.

IO/Inspector Kamal Kishore.

Ld. Counsel Sh. Ravinder Singh for the complainant.

ORDER ON ANTICIPATORY BAIL APPLICATION
OF ACCUSED HARISH KUMAR

An application seeking anticipatory bail was moved on behalf
of accused Harish Kumar by his Ld. Counsel Sh. Ravi Drall on
05.06.2020, which was marked on the same day to this court by Ld.
District & Sessions Judge-cum-Special Judge (PC Act) Ms. Sujata
Kohli, Rouse Avenue District Courts, New Delhi for decision and
disposal of the same.

I had heard the arguments addressed by Ld. Defence Counsel
Sh. Ravi Drall for the accused Harish Kumar, Ld. Addl. Public
Prosecutor Sh. Manish Rawat and the IO/Inspector Kamal Kishore
on behalf of the State and Ld. Counsel Sh. Ravinder Singh for the
complainant on the same day through Video Conferencing by



CISCO WEBEX Meetings platform, as per the directions of Ld. District & Sessions Judge cum Special Judge (PC Act) Ms. Sujata Kohli, Rouse Avenue District Courts, New Delhi to avoid contacting infection of Corona Virus (COVID-2019) spread in the country and to work from home maintaining social distancing.

However, on 05.06.2020 neither Ld. Defence Counsel nor the IO had filed the complete record of suicide note and the diary written by the deceased Dr. Late Sh. Rajendra Singh, therefore, a direction was given to the IO to file the same in e-form through computer branch of Rouse Avenue District Courts, New Delhi at the earliest on 06.06.2020 before 11.30 A.M. The IO promptly complied with the aforesaid directions and filed the requisite documents in the evening of 05.06.2020 itself.

In brief, the material facts are that one accused Prakash Jarwal (who was MLA from Deoli Constituency New Delhi), used to extort money through his accomplices Kapil Nagar, Harish Jarwal and Anil Jarwal from the deceased Dr. Late Sh. Rajendra Singh since 2015 for permitting his water tanker to remain engaged with Delhi Jal Board. The deceased was in a grave fear and used to pay extorted money to the accused Prakash Jarwal through his aforesaid accomplices. The deceased had paid the extorted money but, accused Prakash Jarwal was not satisfied and hence his water tankers were removed from Delhi Jal Board and Delhi Jal Board had also stopped payment of his bills therefore, due to harassment made by the accused persons, over a long duration, the deceased on 18.04.2020 at about 05:30 a.m. in early morning, committed suicide on the roof top of his house no. A-144, Second floor, Durga Vihar, Devli, New Delhi. The matter was reported to the police on the same day, the Crime Team visited and inspected the spot and seized a suicide note and a diary written by the deceased revealing the facts against the aforesaid accused persons; the police had issued a notice Cr.P.C. to the applicant and hence, the applicant has filed the present application seeking anticipatory bail.



Ld. Defence Counsel prayed for granting of anticipatory bail to the accused Harish Kumar in brief submitting that accused is not named in the FIR; the accused has already joined investigation more than twenty times as per directions of the police; the suicide note is doubtful and the same is in two handwritings and name of the accused mentioned in the suicide note is not in the handwriting of the deceased as the ink used in the first portion of the suicide note and the second portion (where name of the accused is mentioned) are different; the first portion is bearing signature but, the second portion is not signed by the writer; there are no allegations of harassment or extortion or abetment of suicide against the accused; the allegations are not specific since date and place of extending threats or extortion are not mentioned in the suicide note or the diary; the accused was not in contact with the deceased or any of his family members; the due payments were made by Delhi Jal Board to the deceased and the deceased had received an amount of Rs. 62 lakh from Delhi Jal Board in the period of January, 2019 to January, 2020; the deceased and his family members are having a motive to falsely implicate the accused Prakash Jarwal and his family members and friends as a sting operation was conducted with the title 'KALA PANI' in the year 2015 against the deceased and his son Hemant Kumar showing how the deceased, his son and their associates were engaged in selling water of Delhi Jal Board illegally; the allegations made against accused are per se false; no recovery is to be effected from the possession of accused; the accused is not having any property in his name; the incident of suicide had occurred on 18.04.2020; notice was given to the accused on 07.05.2020; there is no complaint against the accused that he influenced the witnesses of the prosecution, gave threat to anybody or tampered with evidence which was being collected by the IO; the co-accused Anil Jarwal had already been granted bail on 02.06.2020; the name of the accused is Harish Kumar and not Prakash Jarwal and he is not brother of main accused Prakash Jarwal.



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Ld. Addl. Public Prosecutor and the IO have contested the aforesaid application of the accused focusing on the points that the offences u/s 306, 386 and 506/34 IPC are serious offences as the offence u/s 306 and 386 IPC are punishable up to the extent of ten years; the accused Harish Kumar has not joined investigation at any time and a false fact has been stated by Ld. Defence Counsel in this regard; custodial interrogation of the accused Harish Kumar is required to unearth the conspiracy which was going on between the main accused Prakash Jarwal, his accomplices Kapil Nagar, their other associates and the accused Harish Kumar; the evidence is also to be collected on the mode of extortions made by the accused persons; the case is at the stage of initial investigation; the deceased has specifically mentioned the name of the accused Harish Kumar in the suicide note and the diary written by him before his death; the complainant who is son of the deceased was also working with Delhi Jal Board and was aware about the facts stated by his father in the aforesaid suicide note and the case diary; some of the witnesses whose statements u/s 161 Cr.P.C. and u/s 164 Cr.P.C. have been recorded have also supported the version of the deceased and the complainant; the accused Harish Kumar was in contact with the deceased, his family members and employee(s) of the deceased; more than 715 calls were made in between the accused Harish Kumar and the main accused Prakash Jarwal which shows that the accused Harish Kumar was closely connected with accused Prakash Jarwal and was collecting extortion money from the owners of the water tankers of Delhi Jal Board; the accused Harish Kumar was extorting money from other water tank owners of Delhi Jal Board even after the arrest of accused Prakash Jarwal and recordings to this effect is in possession of Delhi Police; the bail application of main accused Prakash Jarwal was dismissed on 28.05.2020; the bail application of accused Anil Jarwal was not opposed by the police as the evidence against him was not collected during investigation at that time however, there are grave allegations and evidences against

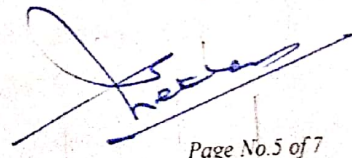


accused Harish Jarwal therefore, the application of the accused Harish Kumar may be dismissed.

Ld. Counsel for the complainant has opposed the aforesaid application concisely submitting that the accused has not annexed the complete copy of suicide note and the diary written by the deceased therefore, the accused Harish Kumar has not come to the court with clean hands and has concealed the material facts; the sting operation stated against the deceased, his son and family members was false; the name of the complainant is Hemant Kumar but, the name shown in the transcription of the sting operation is shown as Harender Singh; the transcription does not relate to the deceased as his name is not mentioned there, only the word Dr. is mentioned, there is no authenticity of sting operation; the accused Harish Kumar is the close conspirator and active participant in the crime, hence he may not be enlarged on anticipatory bail.

Ld. Defence Counsel in rebuttal has submitted that there is no proof that accused Harish Kumar used to collect money on behalf of accused Prakash Jarwal; the accused Harish Kumar himself is one of the water tanker owners therefore, he was in contact with the deceased and his family members; as per reply received through RTI the Delhi Jal Board after the sting operation, had removed the water tankers of the deceased but, the deceased had engaged his water tankers with Delhi Jal Board after transferring the ownership of his tankers in the name of his family member and other person; the police did not give any second notice to the accused; no NBWs were taken by the police against the accused; in sting operation, the deceased was seen in video; the witnesses are deposing falsely in their statements u/s 161 Cr.P.C. and 164 Cr.P.C. against the accused; Ld. Defence Counsel humbly prayed for granting anticipatory bail to the accused Harish Kumar on the aforesaid




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I have considered the submissions of the IO and the Ld. Counsel of respective parties and perused the facts stated in the bail application and annexure annexed along with it, facts mentioned in the reply of the IO and the suicide note and diary filed by the IO as per directions of this court.

A perusal of the record shows that the case is at the initial stage of investigation; the name of the accused Harish Kumar is mentioned in the suicide note and in the diary stated to be written by the deceased before his death; the accused was having close connection with the main accused Prakash Jarwal as it is stated that about 715 calls were exchanged between the main accused Prakash Jarwal and the accused Harish Kumar; at the stage of considering application for granting anticipatory bail, only a prima facie case is required to be seen; a perusal of the suicide note and diary shows a prima facie case against the accused Harish kumar; the IO has claimed that some of the witnesses examined during the course of investigation u/s 161 Cr.P.C. and 164 Cr.P.C. have deposed against the accused and have supported the facts stated in the suicide note and the diary written by the deceased and they have deposed against the accused persons including the applicant, therefore also a prima facie case is made out at this stage against the accused. In these circumstances, it seems that a custodial interrogation of the accused Harish Kumar is essential for further investigation to bring true facts on record. The arguments of Ld. Defence Counsel that there is variation in ink on the suicide note and the signature of the deceased is not there beneath the portion of the suicide note where name of the accused Harish Kumar is mentioned, has no force as at this stage, only a prima facie case is to be seen; the fact that other co-accused Anil Jarwal has already been granted bail does not assist the accused in any manner as the bail of said accused was not opposed by the police due to lack of evidence against him. The offences alleged against the accused are grave and serious in nature as punishment for offences, u/s 306 and 386 IPC may extend to



imprisonment up to ten years; there is nothing on record, which suggests that deceased or the complainant have made false allegations against the accused with the object of injuring and humiliating him. Therefore, after considering the facts and circumstances of the case in totality, it seems that it is not judicious to use judicial discretion of granting anticipatory bail to the accused Harish Kumar, hence, *the present anticipatory bail application of accused Harish Kumar is dismissed and disposed of accordingly.*

A copy of this order is being sent through Whats App to Sh. Surender Kumar Incharge Computer Branch Rouse Avenue District Courts, New Delhi with a direction to upload the same on official website of Delhi District Courts at the earliest and also send an e-copy of the same to all the parties concerned, who addressed submissions on the aforesaid application on 05.06.2020. A signed hard copy of the order shall be sent to the concerned court as soon as work is resumed from the Court premises of Rouse Avenue District Courts, New Delhi.

Dated 06.06.2020



Sh. Chandra Shekhar

CHANDRA SHEKHAR

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