

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2343 of 2015**

Dilip Sharma, S/o Ashok Sharma, aged about 29 years, R/o Village Sivni, Police Station Marwahi, Civil and Revenue District – Bilaspur (C.G.)

---- Applicant

Versus

State Of Chhattisgarh: Through Station House Officer, police of Police Station – Marwahi, District Bilaspur (C.G.)

---- Non-applicant

For Applicant: Mr. Kishore Narayan, Advocate.
For Respondent/State: Mr. R.K. Mishra, Deputy Advocate
General for the State.

Hon'ble Shri Justice Sanjay K. Agrawal

C A V Order**14/08/2015**

Heard.

(1) The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 54/2013 registered at Police Station Marwahi, District Bilaspur for the offences punishable under Sections 304-B, 498(A), 302 & 201/34 of Indian Penal Code.

(2) Case of the prosecution, in brief, is that Snehlata (since deceased) is said to be strangled by co-accused Ashok

Sharma on 30.03.2013 and, thereby, committed the aforesaid offences.

(3) Counsel for the applicant submits that initially First Information Report was made against Ashok Sharma, Suneeta Sharma & Meena Pandey but ultimately charge sheet was filed only against Ashok Sharma on 4.4.2013 finding no evidence against the present applicant but when the Writ Petition (Cr.) No. 238/2014 was filed and notice was issued by this Court on 5.1.2015, the applicant was arrested on 10.03.2015 holding that there is direction of the High Court to further investigate the matter and ultimately charge sheet was filed on 2.6.2015 against the applicant -Dileep Sharma and Smt. Sunita Sharma & Smtt Meena Pandey; and Smt. Sunita Sharma & Smt. Meena Pandey have been granted anticipatory bail on 13.05.2015 in M.Cr.C.(A) No.337/2015. He further submits that there is no permission for further investigation from the jurisdictional criminal Court and there is no direction from this Court for further investigation, and filing of charge sheet against the applicant without direction of further investigation or permission from competent criminal court is in teeth of decision of the Supreme Court in case of **Vinay Tyagi Vs. Irshad Ali @ Deepak & others**, (2013) 5 SCC 762. He would further submit that applicant was not present on 30.3.2013 when his wife was said to be strangled by co-accused Ashok Sharma and the filing of supplementary charge sheet without permission of this Court is illegal. He further

submits that applicant is in jail since 10.03.2015 and, therefore, the applicant may be released on bail.

(4) On the other hand, counsel for the State submits that further investigation can be made under Section 173 Cr.P.C., and, therefore, no permission was required to be obtained.

(5) In the aforesaid decision **Vinay Tyagi** (supra), Their Lordships of the Supreme Court has held that as a procedure of propriety, the police has to seek permission of the Court to continue further investigation and file supplementary charge sheet.

(6) It is not in dispute that in pursuant to the FIR made, the investigation was completed and on 11.10.2013, charge sheet was filed only against Ashok Sharma. Against Suneeta Sharma & Meena Pandey and against present applicant, sufficient evidence was not found and, therefore, no charge sheet was filed but thereafter writ petition (Cr.) No.238/2014 was filed by father of the deceased, in which, notice was issued on 5.1.2015 by this Court to the State of Chhattisgarh & others. The prosecution could not place any order/direction of the High Court, directing further investigation to the prosecution and supplementary charge sheet was filed against the applicant, in which, the applicant was arrested on 10.03.2015, and it is the case of the petitioner that there is no permission of the Court to continue further investigation and file supplementary charge sheet, which is in

teeth of judgment of the Supreme Court in case of Vinay Tyagi (supra); and the applicant is languishing in jail since 10.03.2015; and the charge sheet has already been filed against the applicant; this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the bail application is allowed.

(7) Accused/applicant – Dilip Sharma is directed to be released on bail 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 trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

