

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.3167 of 2015**

1. Baldau Singh S/o Late Sukhnandan Singh, Aged about 58 years, R/o Assistant Sub-Inspector, Police Station-Aam.Chowki
2. Mukesh Thakur, S/o Baldau Singh, Aged about 28 years, Daily Wager Employee, District Session Court Rajnandgaon (CG)

---Applicants**Versus**

The State of Chhattisgarh through Station House Officer, Police Station Kotwali, Rajnandgaon, District Rajnandgaon (CG)

---Non-applicant

For Applicants	:	Mr. Shivang Dubey, Advocate
For Non-applicant	:	Mr. Anupam Dubey, Dy.Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****30/07/2015**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.258/2015, registered at Police Station-Kotwali, District-Rajnandgaon (CG), for the offence punishable under Sections 304B and 498A of the IPC.
2. Case of the prosecution, in brief, is that marriage of Sharddha Thakur was solemnized with Vinay Thakur, son of applicant No.1, on 11.6.2014 and immediately after marriage the present applicants and co-accused started harassing her, treated her with cruelty demanding dowry and out of the harassment made, she committed suicide on 17.2.2015 by pouring kerosene over her and setting fire and ultimately she died on 13.3.2015.
3. Learned counsel for the applicant would submit that the applicants have not committed any offence and they have falsely been implicated in offence

in question. In fact, with effect from 11.12.2014 the deceased was residing with her parents at village Bhagwan Tola, she attempted to commit suicide on 17.2.2015 and ultimately she died on 13.3.2015. There is no demand of dowry soon before her death and according to statement of Sukhkaran Singh Thakur, father of the deceased, demand of dowry was lastly made on 18.11.2014. Learned counsel would further submit that death occurred in the house her parents and not in the house of the present applicants. Learned counsel would also submit that one of essential ingredient is that demand of dowry must be “soon before death” is not fulfilled in the present case and therefore, no offence is made out against the applicants. Learned counsel relying upon the judgment of the Hon’ble Supreme Court in the matter of **Baljinder Kaur v. State of Punjab**¹ and **Ramchandra Goyal & others v. State of M.P.**² He would also submit that the applicants are in jail since 14.5.2015, charge-sheet has already been filed and no custodial interrogation is required.

4. On the other hand, learned counsel for the State would oppose the bail application and submit that “soon before death” has not to be construed immediately before death. Learned counsel for the State relied upon the judgment of the Hon’ble Supreme Court in the matter of **Tummala Venkateshwar Rao v. State of Andhra Pradesh**³. Learned counsel would further submit that in the dying declaration made by the deceased she has clearly named the present applicants that they were harassing her on account of demand of dowry and from statement of father of the deceased Sukhkaran Singh Thakur, it is quite vivid that the applicants are involved in the offence and as such, they are not entitled to be released on bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.

¹ AIR 2014 SCW Weekly 566
² 22015 (1) C.G.L.J.347
³ (2014) 2 SCC 240

6. It is not in dispute that marriage of Vinay Thakur was solemnized with the deceased on 11.6.2014 and on account of dispute between the parties she was residing with her parents with effect from 11.12.2014 where she committed suicide. It is also the case of the prosecution, which is apparent from the statement of father of the deceased Sukhkaran Singh Thakur that relations between them were not cordial after 11.12.2014, the date on which the deceased came to the house of her parents as well as statement by Sukhkaran Singh Thakur, father of the deceased and they were not in talking terms and demand of dowry was lastly said to be made on 18.11.2014.

7. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; further taking into note that the deceased was living separately from the applicants and living with her parents with effect from 11.12.2014 and demand of dowry was alleged to be lastly made on 18.11.2014, the applicants are father-in-law and brother-in-law of the deceased, they are in jail since 15.5.2015, charge-sheet has already been filed and no custodial interrogation is required, this Court is of the opinion that present is the fit case, in which, the applicants should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that applicants **Baldau Singh** and **Mukesh Thakur** shall be released on bail on their furnishing a personal bond in the sum of **Rs.25,000/-** each with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
JUDGE