

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6226 of 2015

1. Khomendra Janghel, S/o. Hulash Janghel, Aged About 36 Years,
2. Hulash Janghel, S/o. Sundar Ram, Aged About 46 Years,
3. Chandrika, W/o. Hulash Janghel, Aged About 42 Years,
4. Lalit Kumar, S/o. Hulash Ram Janghel, Aged About 21 Years,
All R/o. Village Bundeli, Chhuikhadan, P.S. & Tahsil Chhuikhadan,
District Rajnandgon, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through: Station House Officer, Police
Of Police Station Chhuikhadan, Distt. Rajnandgaon, Chhattisgarh

---- Respondent

For Applicants	:	Mr. Vivek Sharma, Advocate
For Respondent	:	Mr. Anupam Dubey, Dy. Govt. Advocate
For Objector	:	Mr. Suresh Kumar Verma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24/11/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No.183/2015 registered at Police Station- Chhuikhadan, District Rajnandgaon (C.G.) for the offence punishable under Sections 304 (B) of Indian Penal Code.
2. The prosecution case, in brief, is that the applicant No.1 Khomendra Janghel was married to Devki Bai in the year 2009 and after the marriage she was subjected to cruelty for demand of dowry of Rs.50,000/- and motorcycle. Consequently, because of such torture, Devki Bai on 19.06.2015 poured kerosene oil and set her ablaze whereby she died and one minor child also sustained

burn injury and died. Since the death of wife occurred within 7 years from the date of marriage; consequently, the case was registered and after investigation the charge sheet has been filed.

3. Learned counsel for the applicants submits that the applicant No.1/ Khomendra is the husband of the deceased, applicant No.2/ Hulash is father -in- law, applicant No.3/Chandrika is mother-in-law and applicant No.4/Lalit Kumar is brother-in-law of the deceased and they have been falsely implicated in this case. He further submits that the deceased never wanted to come back to her matrimonial house as there was some dispute arose because her husband had eloped with another woman and that was the reason for committing suicide. He submits that in the preliminary enquiry nothing was stated about demand of dowry and therefore he further submits that the applicants have wrongly been inculpated. It is further stated that the charge sheet in this case has been filed and the entire family is behind the bars. Therefore, the applicants may be released on bail.
4. Learned State counsel and learned counsel for the Objector opposes the prayer for grant of bail. They would submit that the deceased was subjected to cruelty for demand of dowry of motorcycle and Rs.50,000/-. In a result, the deceased committed suicide by pouring kerosene oil on her whereby the deceased and her minor daughter were died.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Perusal of the case diary would show that it contains the statement of Smt. Kaina Bai, Chameli & Parima. They have not stated anything about the demand of dowry rather it is stated that the husband of the deceased Khomendra Janghel had eloped with

a girl namely Mahima for which a meeting was convened in the village. Thereafter, the husband of the deceased Khomendra was residing at other place not in the village where the incident happened and before the incident on 19.06.2015 prior to one month the deceased alongwith husband was seen in the village. It is also stated that because the applicant had eloped with a girl therefore the father of the deceased took the deceased to her maternal home. The statement of the witness would show that out of the wedlock two children were also born. In subsequent statements allegation of dowry was made by few of the witness and the relative of the deceased in the year 2013. However, this fact is corroborated by all witness that Khomendra had eloped with a girl of the village and therefore the deceased Devki was taken back at Kamtha village from village Bundeli and the husband also resided in other village. The incident happened at Bundel wherein she came one month earlier to the death and the statement would also show that the applicant No.1 Khomendra was residing with the deceased.

7. Taking the totality of the evidence and the presence of other applicants i.e. Hulash Janghel, Chandrika & Lalit Kumar, prima facie, it shows that the deceased was with Khomendra and residing at her father's place therefore the applicant No.2, 3 & 4 were residing at other village from the deceased. Therefore, taking the totality of fact considering the proximity of presence of applicant No.2, 3 & 4 with that of deceased as they were residing separately, without any observation on merit, for purpose of bail, I am inclined to release the applicant No.2, 3 & 4 namely Hulash, Chandrika & Lalit Kumar respectively on bail and considering the fact that the applicant No.1 Khomendra was residing with the deceased/wife, therefore, to negate the presumption of offence

would be on the applicant No.1, in a result, I am not inclined to release the applicant No.1 on bail.

8. Accordingly, the bail application filed under Section 439 of Cr.P.C. on behalf of applicant No.2, 3 & 4 are allowed and the bail application filed on behalf of the applicant No.1 is dismissed.
9. It is directed that the applicant No.2, 3 & 4 namely Hulash, Chandrika & Lalit Kumar shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.
10. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge