

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7574 of 2015

- Banka Bai W/o Mahan Ratre Aged About 70 Years R/o Village Nipaniya (Madairkapa), Police Station Lalpur, Civil Distt. Bilaspur, Revenue Distt. Mungeli, Chhattisgarh. - **Petitioner**

Versus

- State of Chhattisgarh through Station House Officer, Police Station Lalpur, Distt. Mungeli, Chhattisgarh. -- **Respondent**

For the applicant	:	Mr. P.P. Sahu, Advocate
For the Respondent	:	Mr. Ramakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.01.2016

1. This is an application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 150 of 2015 registered at P.S. Lalpur, Distt. Mungeli (C.G) for the offence punishable under Section 302, 109/34 IPC.
2. Case of prosecution, in brief, is that deceased Hemkumari was married with Manish 8-9 years prior to the incident. Manish was grandson of the applicant. It is alleged that the deceased was subjected to torture by the husband Manish for demand of dowry wherein the applicant and other co-accused namely Sukmani mother-in-law and Mohan father-in-law used to incite and assist Manish. As per the prosecution it was stated by deceased Hemkumari in her dying declaration that on 24.07.2015 accused Manish tied her and set her ablaze by sprinkling Kerosene oil on her body and that time, the present applicant alongwith co-accused mother-in-law and father-in-law was present in the house.

3. Learned counsel for the applicant submits that only the presence of the applicant at the time of incident has been stated in the house and no active role was played by the applicant in commission of offence. He further submits that the applicant is in jail since 16.09.2015 and she being old and infirm lady, may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail application.
5. Perused the dying declaration. In dying declaration, primary allegations have been attributed to the husband and further it is also stated that at the time of accident, all the four persons including the present applicant were responsible for the incident. The veracity of the dying declaration is to be adjudged at the time of trial.
6. Taking into totality of the facts and circumstances and the way in which the offence committed and also considering the fact that the allegation has also been attributed to this applicant, at this stage, I am not inclined to release applicant on bail only on the question of age. Accordingly, this application is rejected.

Sd/-
GOUTAM BHADURI
JUDGE