

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.2902 of 2016

Smt. Kimsy Kamboj (Jain), W/o Vikas Jain, aged about 26 years, R/o Shop No.212, Jonal Market, Sector-10, Bhilai, Distt. Durg (C.G.).

At present R/o Flat No.18, G-11, 5th Floor, Chouhan Town, Junwani, Tahsil & Distt. Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through SHO, Police Station Pulgaon, Distt. Durg (C.G.)

---- Non-applicant

For Applicant:	Mr. Vivek Sharma, Advocate.
For Non-applicant:	Mr. Neeraj Jain, Govt. Advocate.
For Objector:	Mr. Kishore Bhaduri and Mr. Anmol Sharma, Advocates.

Hon'ble Shri Justice Sanjay K. Agrawal

Order (C.A.V.)

27/07/2016

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing her on regular bail during trial in connection with Crime No.643/2015, registered at Police Station Pulgaon, Distt. Durg, for the offence punishable under Sections 302, 201 and 120B of the IPC.
2. Case of the prosecution, in brief, is that on 9-11-2015 at 5 p.m., the applicant along with two accused persons Vikas Jain – her husband and Ajit Singh - her uncle, with common intention after hatching conspiracy committed murder of Abhishek Mishra and

thereafter in order to cause disappearance of evidence of the offence, they buried the dead body of the deceased in an open place situated in the maternal house of the applicant at Smriti Nagar, Bhilai and thereby committed the offence.

3. Mr. Vivek Sharma, learned counsel appearing for the applicant, would submit that the applicant has not committed any offence, she has been falsely implicated in the offence in question as there is no evidence of murder against the present applicant. The applicant has been implicated with the aid of Section 120B of the IPC. The case is based only on the basis of the memorandum statements of Vikas Jain and Ajit Singh, whereas no incriminating material has been seized from the possession of the applicant with regard to the offence in question. Mr. Vivek Sharma would further submit that no overt-act has been attributed to the applicant and there is no evidence that at any point of time, the applicant along with other accused – her husband and uncle, called the deceased with a conspiracy and in furtherance of common intention, the other two co-accused had killed the deceased. He would also submit that the applicant has recently delivered a baby who is aged about 7 months and the baby is also staying with the applicant in jail. Charge-sheet has been filed and investigation has fully completed. The applicant being a woman is already facing trial and is entitled to be released on bail as no useful purpose will be served by detaining her in jail. The applicant is in custody since 24-12-2015 i.e. for the last more than six months.

4. On the other hand, Mr. Neeraj Jain, learned Govt. Advocate appearing on behalf of the State, opposing the bail application would submit that the applicant is actively involved in the offence in question as by way of conspiracy hatched with her husband and uncle, the deceased was called and when the deceased reached, he was assaulted and most secretly the dead body was buried in an open place in the premises of maternal uncle's house of the applicant situated at Smriti Nagar, Bhilai. The police started investigation on the missing report and on the basis of mobile call details pertaining to the deceased and the accused persons, the jurisdictional police with great difficulty found prima facie evidence against the applicant and other co-accused persons and arrested them in the aforesaid offence. The incident was happened on 9-11-2015 at 5 p.m.. The deceased was Director of Shankaracharya Group of Educational Institutions. Decomposed dead body of the deceased was recovered on the basis of the memorandum statements of Ajit Singh and Vikas Jain.
5. Mr. Kishore Bhaduri and Mr. Anmol Sharma, learned counsel appearing on behalf of the objector, would adopt the line of argument as argued by the State counsel and submit that the applicant is not entitled for bail.
6. I have heard learned counsel appearing for the parties and perused the case diary.
7. Taking into consideration, nature and gravity of offences which are alleged to have been committed by the applicant; further

taking into consideration the manner in which the applicant is said to have called the deceased by making a phone call and thereafter, the deceased (Abhishek Mishra) was alleged to have been assaulted by two other co-accused by which he suffered injuries and succumbed to death; further taking into account the fact that the deceased was said to have been buried in presence of the applicant in the house of co-accused (her uncle) and attending circumstances and evidence available on record, I do not consider it a fit case for grant of bail to the applicant, at this stage. Consequently, the application for grant of bail deserves to be and is accordingly rejected.

Sd/-
(Sanjay K. Agrawal)
Judge