

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4398 of 2016

1. Shri Mukesh Agrawal S/O Manohar Lal Agrawal Aged About 32 Years R/O. Pooja Apartment, A-203, Kranti Nagar, Bilaspur Police Station & Post Tarbahar, Civil & Revenue District Bilaspur Chhattisgarh
2. Milan Agrawal S/O Monohar Lal Agrawal Aged About 34 Years R/O Pooja Apartment, A-203, Kranti Nagar, Bilaspur Police Station & Post Tarbahar, Civil & Revenue District Bilaspur Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station, Tarbahar District, Bilaspur Chhattisgarh

---- Respondent

For Applicants : Mr. Manoj Paranjpe, Advocate

For Respondent/State : Mrs. Shobha Kashyap, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09-08-2016

1. This is first bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested on 7-5-2016 in connection with Crime No. 271 of 2015 registered at Police Station Tarbahar, District Bilaspur (CG), for the offence punishable under Sections 498-A & 304-B read with Section 34 of the IPC.
2. Case of the prosecution, in brief, is that the marriage of deceased Sapna Agrawal was solemnized with Milan Agrawal, applicant No.2 on 24-5-2015 and thereafter on account of cruelty being extended by the present applicants i.e., Milan Agrawal, husband of the deceased and Mukesh Agrawal, applicant No.1, who is brother-in-law of the deceased, she set

herself ablaze on 10-9-2015 and eventually she died on 16-9-2015 and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicants would submit that deceased left her matrimonial house on 3-8-2015 and she was at her parental house and on 10-9-2015 she set herself ablaze and in between 3-8-2015 and 10-9-2015 no communication was made which would go to show that the deceased was not subjected to torture soon before her death. It is further submitted that dying declaration of the deceased was recorded on 10-9-2015 and statement of the deceased was recorded under Section 161 of the Cr.P.C., on 14-9-2015 in which no allegations of commission of offence have been attributed to the present applicants. He would further submit that the case of the present applicants is similar to the case of other co-accused persons namely Manohar Agrawal and Smt. Manju Agrawal who have been enlarged on bail vide order dated 30-3-2016 passed by co-ordinate Bench of this Court in M.Cr.C. Nos. 1507 of 2016 and 1538 of 2016 and other co-accused namely Ravikant Nopani who has been enlarged on regular bail vide order dated 18-12-2015 passed by this Court in M.Cr.C.(A) No. 1261 of 2015. Therefore, present applicants may be released on bail on the ground of parity.
4. *Per contra*, learned State counsel opposes the application for grant of bail.
5. I have heard learned counsel for the parties and perused the case diary, dying declaration of the deceased and also the statement of the deceased which would go to show the

involvement of the applicants in committing cruelty. In dying declaration of the deceased it has been categorically pleaded by the deceased that the culprit should be punished.

6. Taking into consideration the statement of the deceased recorded under Section 161 of the Cr.P.C., further taking into consideration the finding given by co-ordinate Bench of this Court while granting bail to the mother-in-law and father-in-law wherein allegations have been attributed to these applicants and further one of the reason for grant of bail that the applicants were aged about 62 & 60 years and further co-accused Ravikant Nopani has been granted anticipatory bail on the ground since no allegations have been attributed to him, therefore, the case of the present applicants are different that of persons enlarged on bail. In view of the above above, I am not inclined to release the applicants on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju