

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No.3636 of 2017

- Puran Patel S/o Banshilal Patel Aged About 32 Years R/o Village - Girsra, Police Station Sarseenwa, Civil & Revenue District, Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through - Police Station Sarseenwa, Civil & Revenue District Baloda Bazar-Bhatapara, Chhattisgarh.

-----Respondent

AND

MCRC No. 3814 of 2017

- Bhuneshwar Sahu S/o Shambhu Lal Sahu, Aged About 25 Years R/o Village Soniyadeeh, P.S. Bilaigarh, Civil & Revenue District Balodabazar-Bhatapara, Chhattisgarh

----Applicant

Versus

- State Of Chhattisgarh Through Police Station Sarseenwa, Civil & Revenue District Balodabazar-Bhatapara, Chhattisgarh

---- Respondent

For Applicant : Shri Adil Minhaj, Advocate.

For Respondent : Shri Aditya Sharma, Panel Lawyer for the State.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

On 14.06.2017.

By this common order the above mentioned M.Cr.Cs are being disposed of as both the applications arise out of same incident and crime number.

2. These are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with crime No. 94/2017 registered at Police Station Sarseenwa, Distt. Baloda

Bazar-Bhatapara for the offence punishable under Sections 306/34 of the Indian Penal Code.

3. As per the case of the prosecution, present applicants along with co-accused had instigated the deceased to commit suicide which she committed on 29.9.2016. Subsequently written complaint was lodged by the husband of the deceased, another FIR was registered and the applicants have been arrested on 13.4.2017 and 22.4.2017 respectively.

4. Learned counsel for the applicants submits that it is a case where the offence was registered only under Section 306/34 IPC and there is no element of evidence against the applicants in the case diary to prove the abetment required under Section 306 IPC and also the necessary ingredients of abetment as defined under Section 107 IPC is also missing. He submits that allegation against the present applicants is that they have been forcing the deceased to commit suicide on account of fact that applicant Puran Patel and co-accused have found the deceased in a compromising position with applicant Bhuneshwar Sahu, on account of which they have been harassing the deceased and forced her to take the extreme step of committing suicide. He further submits that the contents of the written complaint are entirely different from the statement of the daughter of the deceased, mother-in-law of the deceased and the husband of the deceased recorded during investigation.

5. On the other hand, learned counsel for the State opposes the bail application and would submit that initially written complaint was that of black mailing the deceased and subsequently it was also alleged that the present applicants on the pretext of exposing her in the village were forcing her to enter into prostitution.

6. I have heard the counsel appearing for the parties.

7. Having considered the rival contention of the parties and perusal of the record what is pertinent to take note is that the date of incident is 29.9.2016, written complaint for the first time was lodged on 28.10.2016 and FIR was registered on 05.4.2017, i.e. after six months from the date of incident and about five months from the date of first complaint. Further from the plain reading of the contents of the case diary, it appears that necessary ingredients required for commission of offence under Section 306 IPC is missing, the ingredients for making the act of abetment as is required under Section 107 of the IPC prima facie is not made out. So far as the case of applicant Bhuneshwar Sahu is concerned, the only allegation against him was that of having illicit relationship with the deceased . Hence, 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 applications filed under Section 439 of the Cr.P.C. are allowed.

9. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with two solvent sureties in the like sum to the satisfaction of the concerned Court for their appearance as and when directed.

10. A copy of this order be kept in the record of M.Cr.C. No.3814/2017.

Certified copy as per rules.

Sd/-
(P. Sam Koshy)
Vacation Judge