

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6090 of 2017**

Smt. Manju Banjare, W/o. Ganesh Banjare, aged about 23 years, R/o. Kundara Para, Police Station – Padmanabhpur, District – Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station – Durg, District – Durg (C.G.).

---- Respondent

For Applicant	: Mr. Gagan Tiwari, Advocate
For Respondent/State	: Mr. Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**10/11/2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.464/2015, registered at Police Station – Durg, District – Durg (C.G.) for the offence punishable under Section 302, 201 & 120(b) of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that applicant is innocent and has been falsely implicated in this case. The incident of suspicious death of Siliya bai Kurre took place on 13.06.2015. Morgue was recorded and in the Postmortem, the cause of death was reported due to injuries on neck and some pathological finding in the liver. FIR was lodged on 13.06.2015 against unknown persons and offence under Section 302 of Indian Penal Code was registered. The

investigation remained pending for almost two years, thereafter, polygraphic test and brain mapping test of Uttarabai and Sonbai, the other co-accused persons were conducted. It is submitted that conclusiveness of the finding of this test can not be made reliable by the prosecution as it has been held in the case of ***Selvi Vs. State of Karnataka***, reported in ***(2010) 7 SCC 263***. It is further submitted that the applicant is a woman and she has child of one and half years and another child of six months, both of them are in jail along with the applicant, hence for these reasons, it is prayed that the applicant be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that apart from the polygraphic and brain mapping test, the prosecution has the support of the memorandum statement given by the applicant on the basis of which, one iron rod was recovered as article of assault in the incident. It is further submitted that as per the evidence collected in the investigation, the deceased and the applicant were the sole occupants of the house hold, it is the burden of the applicant to prove the fact that as to how the death of the deceased has taken place, which is covered under Section 106 of the Evidence Act. Therefore, the applicant may not be released on bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. Considered the submission made and the contents of the case diary. There is admission made by the co-accused Sonbai and Uttara Bai in their polygraphic and brain mapping test, which has been made the

basis of prosecution against the applicant. On going through the other material on record, which is proposed to be presented as evidence before the trial Court against the applicant, without commenting on merits of this case, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

6. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. is allowed.
7. It is directed that applicant shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for her appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge