

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2606 of 2017**

1. Shivram Gupta S/o Devi Prasad Gupta, Aged About 22 Years R/o Main Road Ranigaon, Ward No. 8, Opposite Lic Office, Lormi, Police Station Lormi, District- Mungeli, Chhattisgarh.
2. Devi Prasad Gupta, S/o Ram Khilawan Gupta, Aged About 47 Years R/o Main Road Ranigaon, Ward No. 8, Opposite Lic Office, Lormi, Police Station Lormi, District- Mungeli, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer Police Station Lormi, District- Mungeli, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 4623 Of 2017**

Parvatee Gupta S/o Devi Lal Gupta, Aged About 40 Years R/o Village Ranigaon, Lormi, Police Station & Tahsil Lormi, District Mungeli, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Police Station Lormi, District Mungeli, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Arun Kochar and Shri Ravish Verma, Advocates.
For the Respondent/State	:	Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****20.11.2017**

1. Both these applications are being decided by this common order as they arise from the same incident. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.81 of 2017, registered at Police Station – Lormi,

District – Mungeli, Chhattisgarh for the offence punishable under Sections 304B, 498-A/34 of the Indian Penal Code in M.Cr.C. No. 2606 of 2017 and for the offence punishable under Section 304B/ 34 of the Indian Penal Code in M.Cr.C. No.4623 of 2017.

2. Learned counsel for the applicants submit that the applicants in M.Cr.C. No. 2606 of 2017 are in jail since 28.3.2017 and the applicant in M.Cr.C. No. 4623 of 2017 is in jail since 30.5.2017. Deceased – Varsha Gupta was wife of applicant Shivram Gupta. She caught fire accidentally on the date of incident and was hospitalized by her husband – Shivram Gupta. The first and second dying declarations were recorded by the Executive Magistrate on 25.2.2017 and 26.2.2017 and the third dying declaration was recorded by the Investigating Officer on 26.2.2017 which clearly shows that the deceased gave the statement that she caught fire accidentally and nobody was to blame for the consequence. It is further submitted that the deceased expired on 5.3.2017 and consequent to that, after due deliberations, FIR was lodged on 11.3.2017. Later on, the witnesses have given the statements on 26.3.2017 making allegations against the applicants in uniform manner which shows that the case has been concocted against the applicants. The applicants are local residents of P.S. Lormi, District Mungeli and there shall be no difficulty in getting their availability during trial and the applicants are ready to abide by all the conditions imposed on them. It is also submitted by counsel for the applicants, that at present with regard to the application for bail by applicant – Shivram Gupta, he does not want to press the application for bail of applicant No.1 – Shivram Gupta in M.Cr.C. No.2606 of 2017 and for the rest, it is submitted that they have been falsely implicated hence, they may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that the statements recorded under Section 161 of the Cr.P.C. given by the witnesses are very exhaustive and narrative of each and everything that took place soon before the incident and shows the conduct of the applicants. It is also submitted that the medical report also mentions presence of smell of kerosene on the body of the deceased when she was first examined by the doctor. On the basis of these findings and the statements, it can be assumed that the dying declaration given by the deceased was under some influence. Hence, for these reasons, the applicants are not entitled for bail.

4. Heard counsel for both the parties and perused the case diary.

5. The facts of the case are that the marriage of the deceased and applicant – Shivram Gupta was solemnized on 30.1.2015 and both had one female child. On 25.2.2017, deceased – Varsha Gupta was admitted in the hospital at Lormi in burnt condition. Later on, she was treated in Mahadev Hospital, Bilaspur where she expired on 5.3.2017. Inquest was conducted and on the basis of the statements of the witnesses, FIR was lodged on 11.3.2017 against the applicants in both the cases.

6. Considering the submissions and the contents of the case diary, particularly the statement of the deceased in her dying declaration that at the time of incident it was only her husband who was present and came to extinguish the fire and hospitalized her, I am of the view that applicant No.2 -

Devi Prasad Gupta in M.Cr.C. No. 2606 of 2017 and Smt. Parvatee Gupta in M.Cr.C. No. 4623 of 2017 are entitled for grant of regular bail. Hence, the bail application in respect of Devi Prasad Gupta and Smt. Parvatee Gupta are allowed. Bail application M.Cr.C. No. 2606 of 2017 in respect of applicant No.1 Shivram Gupta is dismissed as not pressed.

7. Accordingly, it is directed that applicant No.2 – Devi Prasad Gupta in M.Cr.C. No.2606 of 2017 and applicant – Parvatee Gupta in M.Cr.C. No.4623 of 2017 shall be released on bail on each of them 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 their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge