

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8217 of 2016

- Mahadev Gabel S/o Shri Itwari Gabel Aged About 54 Years R/o Village Beejatrai, Chowki Fasterpur Police Station City Kotwali Distt. Mungeli Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through: Police Station City Kotwali , Distt. Mungeli Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Dheerendra Pandey, Advocate

For Respondent/State : Mr. Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

24-01-2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 15-8-2016 in connection with Crime No. 391 of 2016, registered at Police Station City Kotwali, District Mungeli (CG) for the offence punishable under Sections 304-B, 302, 34 of the IPC.
2. As per prosecution, a report was made that one Aarti Gabel who was married to son of the present applicant, died on 11-8-2016. It is alleged that she was subject to cruelty and was poisoned before her death. She was married to the son of the present applicant two years prior to the date of incident.
3. Learned counsel appearing for the applicant would submit that there is no evidence against the present applicant and statement of Dr. Sanjay Agarawal would be relevant wherein it is stated that deceased came to him for treatment of some injury which she sustained on her leg whereas postmortem report shows that she died due to poison. No allegations have been attributed to the present applicant. He would further submit that

charge-sheet has been filed in this case, the applicant is in jail since 15-8-2016 and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties, perused the case diary and documents including the postmortem report.
6. Postmortem report shows that death was due to some poison. Reading of the case diary and merg diary would show that statement of uncle of the deceased was recorded and shows that injury on leg was complained. However, photo copy of the case diary do not show that any statement is enclosed. It appears that the statements of the witnesses do not form part of the case diary which is placed for perusal before this Court though the same appears to have been recorded.
7. Taking into consideration the facts and circumstances of the case and further considering the nature of allegations against the present applicant and also the fact that charge-sheet in this case has been filed and the applicant is in jail since 15-8-2016, this court is inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and it is directed that the applicant shall be released on bail on his 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 his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

