

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5308 of 2017

Smt. Jamuna Bai Ganjir, W/o. Dadu Singh Ganjir, Aged About 52 Years,
R/o. Village Sarona, Tahsil Narharpur, District North Bastar Kanker,
Chhattisgarh, Civil & Revenue District North Bastar Kanker.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station
Narharpur, District North Bastar Kanker, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sandeep Shrivastava, Advocate

For Respondent : Mr. Sangharsh Pandey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

13.09.2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.67/2016 registered at Police Station- Narharpur, District North Bastar Kanker (C.G.) for the offence punishable under Sections 302, 304B/34 of I.P.C. The first bail application was dismissed as withdrawn on 24.08.2016 in MCRC No.4877 of 2016 with liberty to repeat the same after examination of the witnesses of dying declaration.
2. Case of the prosecution, in brief, is that on 14.04.2016 the deceased Shakuntala sustained burn injury and subsequently in late hours she died. It is alleged that she was married to the son of the present applicant namely Kailash Ganjir and thereafter she was subjected to torture for demand of dowry. The deceased was married in the year 2011 and within seven years, the incident happened. Therefore, the offence has been committed.

3. Learned counsel for the applicant would submit that two of the alleged dying declaration witness PW-9 & PW-10 have not supported the case of the prosecution and the statement of the Doctor PW-6 would show that at the time when the dying declaration was recorded, the deceased was not in a state of condition to depose. He further submits that the dying declaration was recorded by the Police Inspector, therefore, the applicant who is an old lady, may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perusal of the case diary, statement and dying declaration. Considering the same, at this stage, it would not be proper for this Court to evaluate the entire statement and evidence, as it would amount to adjudicate the case on merit while hearing the bail application. Considering the entirety of the case and dying declaration, I am not inclined to entertain the instant second bail application.
6. Accordingly, the second bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge