

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 459 of 2018**

1. Dharam Singh Bariha S/o Bariha Aged About 48 Years R/o Village Anavarpur, Thana Bagbahara, District Mahasamund Chhattisgarh, Chandigarh
2. Smt. Hom Bai @ Hum Bai W/o Dharam Singh Bariha Aged About 40 Years R/o Village Anavarpur, Thana Bagbahara, District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Bagbahara District Mahasamund Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Vikash Pradhan, Advocate.
For the Respondent/State	:	Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****20.03.2018**

Heard.

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 applicants who have been arrested in connection with Crime No.203 of 2017, registered at Police Station – Bagbahara, District – Mahasamund, Chhattisgarh for the offence punishable under Section 304-B of the Indian Penal Code.
2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. No case is made out against the applicants on the basis of the material placed before the Court by the

prosecution. The statement of the deceased in dying declaration is vague and in the nature of general allegation, whereas the statements of the witnesses do not disclose any specific demand of dowry. The applicants are in jail since 4.10.2017 and they are ready to abide by all the conditions that may be imposed on them. Hence, it is prayed that the applicants be enlarged on bail.qa

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 the allegation made by the deceased herself in dying declaration is directly against these applicants and there is a statement alleging cruel treatment for demand of dowry, as such it is a clear case of dowry death. Hence, no case is made out for grant of regular bail to the applicants.

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

5. According to the prosecution case, son of applicant No.1 – Santosh Bariha and deceased - Chanda Bai Bariha had love affair and they married each other without any permission of their parents. The deceased committed suicide on 3.6.2017 by consuming some poisonous substance. A suicidal note was recovered from the spot of incident in which she made an allegation against applicant No.1 that he used to torture for demand of dowry. Later on, statements of the witnesses have been recorded on 2.10.2017 in which father of the deceased has stated that as the deceased could not get up early and do the household chores for which she has been scolded by her in-laws. Later on, it is alleged in the statement that the applicants and others have stated that the deceased has not brought

anything in dowry and they asked her to bring Rs.40 – 50,000/- from her paternal home for doing some kind of business.

6. Considering the material present in the case-diary, it is not a case of specific demand with respect to dowry except asking for money for doing business which can also be interpreted as borrowing the same, but the same shall be confirmed in the trial. Hence, at present, I am of the considered opinion that the present is a fit case where the applicants are entitled to be released on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. 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 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