

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 230 of 2018**

Smt. Alish Lal Wd/o late Jiwan Lal, aged about 64 years, R/o Shakti Ward Bhatapara, Police Station Bhatapara (Shahar), Tahsil Bhatapara, District Baloda Bazar-Bhatapara (CG)

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police Station Bhatapara (Shahar), District Baloda Bazar -Bhatapara (CG)

---- Respondent

For Applicant	:	Shri A. S. Rajput, Advocate
For Respondent/State	:	Shri Lav Sharma, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****21/03/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 18.11.2017 in connection with Crime No. 268/2017 registered at Police Station Bhatapara Shahar, District Baloda Bazar-Bhatapara (CG) for the offence punishable under Sections 302, 201/34 of IPC.

2. The case against the present applicant as per the prosecution is that the applicant in connivance with other two accused persons namely Vinay and Wilson is said to have murdered her daughter-in-law Smt. Rutlal on 27.08.2017.

3. Contention of the counsel for the applicant is that for the incident that took place on 27.08.2017, the applicant was arrested only on 18.11.2017. Even when the initial FIR was lodged, the applicant was not named in the FIR and the name of two other accused persons were clearly reflected. Counsel for the applicant submits that the only piece of evidence against

the applicant is the alleged extra judicial confession which is said to have been made by the applicant when she was refused to participate in the funeral ceremony of the deceased. He submits that even the memorandum statement of accused Vinay would reveal that the present applicant was not present at the place of incident but was inside the house when the incident occurred. Thus, counsel for the applicant prays for grant of bail to the applicant.

4. State counsel, however, opposing the bail application submits that there are statements of Priti Dhruv, Shailendra Masih and Nilima Masih who have stated that the present applicant wanted to participate in the funeral ceremony of the deceased but the family members of the deceased did not allow her participating in the ceremony. At that point of time, the applicant is said to have shouted that it is for this reason the deceased was killed by them. This by itself amounts to an extra judicial confession and it is a substantive piece of evidence, therefore, the applicant does not deserve to be released on bail.

5. Having heard the contentions put forth on either side and on perusal of the record what clearly reflects is that the present applicant was implicated in the case much subsequent to the FIR was lodged. The only piece of evidence against the applicant is her alleged statement when she was refused and objected to participate in the funeral ceremony of the deceased. However, the circumstance under which the reaction is being considered as an extra judicial confession is an important factor. Moreover, from the memorandum statement of the main accused Vinay it reveals that the applicant was not involved in the incident at the relevant point of time as she was inside her room. For all these facts and circumstances of the case and also considering the age of the applicant, this Court is of the opinion that a strong case for grant of bail has been made out.

6. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will 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 before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
JUDGE**