

HIGH COURT OF CHHATTISGARH AT BILASPURM.Cr.C. No.1161 of 2018

1. Sahabuddin Ansari S/o Gulam Ansari, aged about 72 years.
2. Razvi Khatun W/o Shri Sahabuddin, aged about 70 years.

Both are R/o village Aara, Balrampur, Police Chowky Bario, Police Thana, Rajpur, District Balrampur, Ramanujganj (C.G.).

---Applicants

Versus

State of Chhattisgarh, Through – Police Station Ambikapur, District Balrampur, Ramanujganj (C.G.).

---Respondent

M.Cr.C. No.1378 of 2018

1. Yusuf Ansari S/o Sahabuddin Ansari, aged about 23 years.
2. Noor Alam Ansari S/o Sahabuddin Ansari, aged about 19 years.

Both are R/o Aara, Balrampur, Chowki Bariyo, Police Station Rajpur, District Balrampur, Ramanujganj (C.G.).

---Applicants

Versus

State of Chhattisgarh, Through – Police Station Chowki Bariyo, Police Station Rajpur, District Balrampur, Ramanujganj (C.G.).

---Respondent

For applicants in MCRC No. 1161/2018 : Shri Jaiprakash Shukla, Advocate.
 For applicants in MCRC No. 1378/2018 : Shri Manoj Paranjpe, Advocate.
 For respondent/State : Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/04/2018

1. These are the two bail applications arising out a Crime No.94/2017 registered at Police Station Ambikapur, District Balrampur, Ramanujganj (C.G.) for the offence punishable under Sections 304-B & 302 r/w 34 of IPC

and Sections 3(ii) & (v) of Scheduled Castes Scheduled Tribes (Prevention of Atrocities Act), 1989 and Crime No.132/2017 registered at Police Station Rajpur, District Balrampur, Ramanujganj (C.G.) for the offence punishable under Sections 304-B & 302 r/w 34 of IPC and Sections 3(ii) & (v) of Scheduled Castes Scheduled Tribes (Prevention of Atrocities Act), 1989.

2. The applicants in MCRC No.1161/2018 are the father-in-law and mother-in-law of the deceased. The applicants in MCRC No.1378/2018 are the two brother-in-law of the deceased.

3. The allegation against the present applicants as per the prosecution case is that, the son of the applicants in MCRC No.1161/2018 namely Shakib Ansari got married to the deceased Devanti in June-2017. The said was intercaste marriage in as much as the husband - Shakib Ansari was Muslim by religion and the deceased girl belonged to a Hindu Scheduled Tribe community.

4. It is alleged that the present applicants in connivance with the husband of the deceased used to subject the deceased to ill-treatment, torture and harassment on demand of dowry and finally the deceased was found dead drowned in a well near the house of the applicants on 28/09/2017. An F.I.R. in this regard was lodged on 01/10/2017.

5. The counsel for the applicants submits that it is a case where the husband of the deceased Shakib Ansari after marriage is said to have shifted to a place known as Luthra, District Bilaspur and there he was residing and working in one of the garage. He submits that for the purpose of

celebrating 'Moharram' festival, the deceased and her husband – Shakib Ansari had gone to the village Aara where the present applicants are resided i.e. the matrimonial home of the deceased and there the deceased is said to have died under suspicious circumstances.

6. According to the counsel for the applicants, the statements which were recorded of the neighbors namely Revati Gond and Vinod Gupta who are the residents of the village Aara have categorically stated that the deceased and her husband had come for celebrating the 'Moharram' festival during which period she was found dead of drowned in a well. These statements of the neighbours itself is sufficient indication that the deceased was not staying at her matrimonial home and had come only to celebrate 'Moharram' festival. Thus there was no occasion of the applicants to have ill-treated, tortured or harassed the deceased on demand of dowry. It was further contended that, the fact that the deceased and her husband was staying at village Luthra, District Bilaspur also stands established from the affidavit filed by the owner of the house which the husband of the deceased had taken on rent i.e. the affidavit of one Sheikh Hamid. This further strengthens the case of the applicants that the deceased was not staying at her matrimonial home at the time of incident. The counsel for the applicants also stressed upon the age of the applicants i.e. the two brother-in-law who were too young boys, aged around 23 and 19 years respectively whereas the father-in-law and mother-in-law both aged more than 70 years and for all these reasons the counsel for the applicants prayed for releasing the applicants on bail.

7. The State counsel however opposing the bail application submits that it is a case where the statements of the family members of the deceased have been recorded and all the family members have made a categorical averment of the present applicants subjected the deceased to ill-treatment, torture and harassment on demand of dowry and which ultimately resulted in the death of the deceased and thus prayed for rejection of bail application.

8. Having heard the contentions put forth on either side and on perusal of record so also considering the statements of the family members of the deceased it would reveal that the nature of allegation levelled were all general in nature. That there was no specific instance made by any of the witness so far as any ill-treatment, torture or harassment on demand of dowry. Moreover, the case of death of the deceased itself is not prima-facie established to be either suicidal or homicidal as the case diary shown as death by drowning. The possibility of an accidental death also cannot be ruled out at this juncture.

9. Considering the total facts and circumstances of the case particularly taking note of the fact that the deceased and her husband were staying away from the matrimonial home and also considering the period of custody, the age of each of the applicants and the statements of the neighbours, this Court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicants.

10. Accordingly, the application for grant of bail is allowed. It is ordered that the applicants shall be released on bail on their executing a personal bond

for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicants shall thereafter appear before the Trial Court on each and every date given by the said court.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE