

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 285 of 2018

1. Gulab Mirre S/o Gurav Ram Aged About 42 Years Caste Satnami, R/o Village Saarsamaar, Police Station Pathalgaon, District Jashpur Chhattisgarh
2. Smt. Uttra Bai W/o Gulab Mirre Aged About 40 Years Caste Satnami, R/o Village Saarsamaar, Police Station Pathalgaon, District Jashpur Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Pathalgaon, District Jashpur Chhattisgarh, District : Jashpur, Chhattisgarh

---- Respondent

For Applicants	:	Shri UKS Chandel, Advocate
For State	:	Shri Manish Nigam, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/04/2018

Heard.

1. This application under Section 438 of Cr.P.C. has been preferred by the applicants, father-in-law and mother-in-law of the deceased apprehending their arrest in connection with Crime No. 16 /2018 registered in Police Station -Pathhalgaon, District- Jashpur for alleged commission of offence under Sections 304-B, 306 read with Section 34 IPC.
2. Case of the prosecution, in brief, is that the victim sustained burn injury. She was admitted in the hospital and though in the dying declaration, victim stated that she sustained burn injury by an accident, during investigation, there were allegation levelled by the parents and family members of the deceased that she was subjected to cruelty. Therefore, upon investigation, a crime has been registered against the applicants.

3. Learned counsel for the applicants would submit that even according to the prosecution, the Executive Magistrate had recorded dying declaration of the deceased in the presence of doctor in the Government hospital which clearly shows that there was an accident, as the victim stated that by way of accident she caught fire. Therefore, implication of the applicants in the criminal case is completely false and merely because the parents and other relatives of the deceased raised certain suspicion, no criminal case could be registered against them for alleged commission of offence.
4. On the other hand, learned counsel for the State opposed the application and submits that though dying declaration has been recorded by the Executive Magistrate in the presence of the doctor, as the family members of the deceased raised suspicion by stating that number of demands were being raised from the deceased and she was being subjected to cruelty in her matrimonial house, a prima facie case is made out.
5. In this case, it is found that the applicants have been involved in the alleged commission of offence because of death of the victim due to burning. However, I find that even according to prosecution, the burnt victim was brought to the hospital and in the presence of doctor, the Executive Magistrate recorded her statement in which she has stated that she caught fire by a chimney due to accident and she was wearing a terrycot saree which speedily caught fire all over the body. In this dying declaration, there is no allegation that she was set on fire either by the applicants or any other members of her family in her matrimonial house. It appears that after she died, the parents and other family members of the deceased made statement that certain demands were raised and the deceased was, at times, tortured and that it was not a case of accident but she was set ablaze.
6. In that view of the matter, when according to prosecution itself, in the dying declaration, deceased stated having caught fire due to an accident, I am inclined to grant benefit of anticipatory bail to the applicants, who are the father-in-law and mother-in-law of the deceased.
7. The application is accordingly allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be

released on bail by the arresting officer on each of them furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicants shall make themselves available for interrogation by the police officer as and when required;

(ii) the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge