

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1776 of 2018**

- Smt. Kusum Bai W/o Late Ramesh Vishwakarma, Aged About 50 Years
R/o Village Anandpur(Pahadpara), Police Station And Tahsil Sonhat,
District Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Of Police
Station Sonhat, District Korea, Chhattisgarh., District : Koriya
(Baikunthpur), Chhattisgarh

--- Respondent

For Applicants : Shri Anil Gulati, Advocate
For Respondent/State: Shri Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****27/04/2018**

Heard.

2. The applicant in the aforesaid bail application has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.122/2017 registered at Police Station Sonhat, District Korea for the offence punishable under Section 302, 201/34 of IPC.
3. Case of the prosecution is that a quarrel took place between the applicant and her husband and it is alleged that son of the applicant Shyam Lal assaulted his father, in which, death took place.
4. Learned counsel for the applicant submitted that from the entire case of the prosecution, all that has been alleged, is that there was a quarrel between the present applicant and her husband. There is no allegation on the applicant that she assaulted the deceased. He submits that the statement of the witnesses of extra judicial confession collected during investigation and annexed along with the charge sheet only shows that the extra judicial confession is of the present applicant only with regard to presence at the spot

and quarrel with her husband and not of assaulting. The statement of extra judicial confession of co-accused Shyam Lal that he murdered his father, cannot be used against the applicant. He further submits that one of the prosecution witnesses-Som Kunwar stated that the present applicant came out and informed that when her husband-Remesh was quarreling in a drunken stage, her son Shyam Lal came and assaulted his father, which does not amount to commission of offence of murder by the present applicant.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that statement of prosecution witnesses would show that the applicant was present at the spot and later on, blood stains at the floor were removed by the applicant, also makes out a case that the applicant was involved in the alleged commission of offence.

6. After going through the contents of the case diary and the charge sheet, it is found that the case of the prosecution is that Shyam Lal had assaulted his father because of some quarrel with her mother. Extra judicial confession of Shyam Lal to some of the prosecution witnesses cannot be used against the present applicant. Version of the present applicant, as stated by one of the prosecution witnesses-Som Kunwar that the applicant informed her that her son Shyam Lal had assaulted and murdered his father. Further, even if the allegation that the applicant made an attempt to remove the blood stains from the floor by using cowdung and there causing disappearance of evidence, it would be commission of offence under Section 201 of IPC.

7. In view of aforesaid consideration, I am inclined to grant bail to the applicant. Accordingly, the bail application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with two surety of the like amount to the satisfaction of the trial Court on the condition that she shall appear before the trial Court regularly on each and every date, unless exempted.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E