

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case (A) No. 300 of 2018**

Ramsharan S/o Shri Firtu Ram Aged About 34 Years Caste- Jaiswal
R/o- Village- Taadipaar, Thana- Sarangarh, District- Raigarh,
Chhattisgarh, Present Address- Jaijaipur, Thana- Jaijaipur, Civil And
Revenue District- Janjgir-Champa, Chhattisgarh.

-----Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station
Jaijaipur, Civil and Revenue Distt. Janjgir Champa (CG).

---- Respondent

For Applicant	:	Shri Sumit Shrivastava, Advocate.
For Respondent	:	Shri Mazid Ali, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/07/2018**

1. The applicant has filed this application for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No.43 of 2018 registered at Police Station Jaijaipur, Distt. Janjgir Champa, for the offence punishable under Section 304 IPC.
2. The allegation against the applicant as per prosecution is that, on 02.02.2018 the applicant, who is otherwise a qualified registered Electro Homeopathy Medicine Practitioner, has given some injection to the deceased Mohanmati who is said to have immediately died because of the medicine's reaction.
3. According to the counsel for the applicant, it is a case where the applicant is duly qualified and competent Electro Homeopathy Medicine Practitioner. Except for the statement of the Husband of the deceased, the prosecution has not been able to collect any

incriminating material by which the applicant could be implicated in the case. He further submits that the deceased before coming to the clinic of the applicant had herself consumed certain medicines and when she did not feel better, she had come to the clinic which could also have been reason for her death. Moreover, even if the entire version of the prosecution is accepted as it is, the case of the prosecution does not have sufficient material with which the offence under Section 304 IPC could be charged against the applicant and worse cum worse the offence which could be charged is one under Section 304-A IPC which is a bailable offence. Therefore prayed for release of the applicant on anticipatory bail.

4. Counsel for the State however opposes the bail application and submits that it is a case where the Husband of the deceased is said to have categorically stated that on account of ill health of the deceased they rushed to the clinic of the applicant who is said to have in the course of treatment has given two injections and immediately the deceased is said to have collapsed. Further, during the course of investigation the prosecution has also recovered certain used syringe from the clinic of the applicant all of which show that the applicant who was an Electro Homeopathy Medicine Practitioner was otherwise not entitled to prescribe injection. Therefore, prayed for rejection of the bail application.
5. Having heard learned counsel for the parties and on perusal of records what is reflected is that admittedly the applicant is Electro Homeopathy Medicine Practitioner duly registered with the appropriate council. The

doctors who have conducted the Postmortem of the deceased have not given any firm opinion that she was died due to some reaction caused on account of medicines/injection given by the applicant. Further, this court is of the opinion that prima faice the ingredients for making out an offence under Section 304 IPC also is lacking from the material collected during the course of investigation by the prosecution agency.

6. Thus, this court is of the view that it is a fit case to grant anticipatory bail to the applicant. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a bond in the sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:

1. That, the accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
2. The accused/applicant 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/her from disclosing such facts to the Court or to any police officer;
3. The accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
4. The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

7. Certified copy, as per rules.

Sd/-
(P. Sam Koshy)
Judge