

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2218 of 2018**

Smt. Durga Pahadi W/o Shri Shani Pahadi Aged About 24 Years R/o- Village- Parsada, Police Chawki- Sakari, Police Station- Chakarbhata, Civil And Revenue District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The Station House Officer, Police Station- Chakarbhata, Civil And Revenue District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Paras Mani Shriwas, Advocate.
For the Respondent/State : Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.05.2018**

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.233 of 2017, registered at Police Station – Chakarbhata, District – Bilaspur, Chhattisgarh for the offence punishable under Section 302/ 34 of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 17.6.2017 and has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. There had been a quarrel between the applicant and the deceased prior to the incident in which the deceased was allegedly

burnt by co-accused – Shani Pahadi but this applicant has not participated in this part of the incident. Hence, the charge under Section 302 is not made out against her. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that according to dying declaration of the deceased she has stated that this applicant was one of the persons who had harassed her prior to her death and also this applicant was present at the time when the deceased was set to fire by co-accused – Shani Pahadi. Hence, her common intention of the applicant is reflected from this fact itself, because of which, she is not entitled for grant of regular bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, there had been some dispute between deceased – Rinki Patre with the applicant and other co-accused persons because of which, the applicant and other co-accused persons abused and thrashed the deceased. It was at the same time the deceased getting enraged went inside her house and came after pouring kerosene oil on her body exhorting the accused persons. At that time, co-accused - Shani Pahadi saying that as the deceased was fond of dying, he set her ablaze with a match stick. Ku. Rinki Patre was admitted in the hospital for treatment and she gave the dying declaration narrating the incident. As it appears that the main role regarding causing death of the deceased can be attributed to co-accused – Shani Pahadi and the applicant was one of the participants at the initial stage of the incident but in the later part she was not

a party, for these reasons, this application deserves to be allowed.

6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

7. It is directed that applicant shall 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 as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge