

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2308 of 2018

Rijwaan Hashmi @ Rijwaan Ansari S/o Mohd. Shamim Aged About 23 Years
Caste- Musalmaan, R/o- Nawapara Kala, P.S. And Tehsil- Premnagar, District-
Surajpur, Chhattisgarh, District : Surajpur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- S.H.O. Premnagar, District- Surajpur,
Chhattisgarh, District : Surajpur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Pawan Shrivastava, Advocate
For State	:	Shri Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/04/2018

The second bail application has been moved by the applicant after some of the prosecution witnesses have been examined on the submission that the evidence that has so far come, the case of the prosecution has become highly doubtful.

2. Elaborating his submission, learned counsel for the applicant argues that the statement of the mother of prosecutrix that the prosecutrix gave an oral dying declaration that she was set on fire by her husband, is highly doubtful because other witnesses i.e. Maqsood (PW4), Mohab Raza (PW6), Ainul Haq Ansari (PW7) and Moh. Mahmood (PW8) have not supported this version. Therefore, what has been stated by the mother regarding oral dying declaration, is extremely doubtful and there is no likelihood of conviction. It is next submitted that the applicant is in jail since 19/07/2017 and therefore, at this stage, he may be granted bail.

3. On the other hand, learned State counsel opposes bail application and submits that earlier bail application was rejected on merits and the application, looking to the nature and gravity of allegations, may be rejected.

4. The applicant is being prosecuted for commission of offence under Section 302-B IPC, which is a grievous offence. This Court had earlier rejected bail application taking into consideration the material in the charge sheet that the deceased had given an oral dying declaration before her mother that she was set on fire by her husband.

5. Though number of grounds have been raised before this Court, this Court is not inclined to evaluate the evidence which has come during trial because the mother has stated in her evidence that she was told by her daughter that she was set on fire by her husband. Whether or not, this statement should be believed, is a matter for appreciation of evidence. Therefore, in these circumstances, I am not inclined to grant bail to the applicant. The application is, therefore, rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge