

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2736 of 2018**

Pitambar Rajak S/o Ramdulari Rajak Aged About 34 Years R/o- Village- Okhar, Police Station- Pachpedi, Present Address- Mahamand, Police Station- Torwa, District- Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Station- Torwa, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 2777 Of 2018**

Smt. Nandini @ Tulsi Bai Sahu W/o Late Raju Sahu Aged About 26 Years R/o- Village Tikari, P.S. Masturi, At Present Resident Of Mahmand, Police Station Torwa, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through- Station House Officer, Police Station Torwa, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Dharmesh Shrivastava and Shri Vinod Tekam, Advocates.
For the Respondent/State	:	Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.06.2018**

1. Both these applications are being decided by a common order as they arise from the similar matter. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to them who have been arrested in connection with Crime No.434 of 2017, registered at Police Station Torwa, District Bilaspur, Chhattisgarh for the offence punishable under Sections 302, 201 and 120B/ 34 of the Indian Penal Code.

2. Learned counsel for the applicants submit that the applicants are in jail since 24.12.2017 and have been falsely implicated in these cases. No case is made out against the applicants on the basis of the material placed before the Court by the prosecution. These applicants have been arrayed as the accused persons only on the basis of the memorandum statement, which is not legally admissible. The articles that have been recovered at the instance of these applicants do not lead to any conclusion that the offence has been committed by these applicants. Hence, it is prayed that the applicants in both the cases be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that in the memorandum statement given by both the applicants, they have clearly admitted their guilt, which led to recovery of articles. Applicant – Smt. Nandini @ Tulsi Bai Sahu herself has identified that the dead body is of her husband and further there are statements of one Rambai Sahu and Smt. Ushabai Sahu, who have stated about the conduct of applicant - Smt. Nandini @ Tulsi Bai Sahu prior to the recovery of dead body of the deceased. Hence, under these circumstances, these applicants are 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, deceased – Raju Sahu was the husband of applicant - Smt. Nandini @ Tulsi Bai Sahu who had developed an affair with somebody else because of which, his wife/ applicant - Smt.

Nandini @ Tulsi Bai Sahu conspired with co-accused/ applicant – Pitambar Rajak and thus, have done to death of the deceased by pressing his head with a stone and thereafter, burning his dead body in open place on 3.12.2017. The remains of the dead body were found on 23.12.2017 and on the same day, merg intimation was recorded in the police station. Subsequently, the FIR was lodged and after the investigation, these applicants have been charge-sheeted.

6. Considered the material present in the case-diary. Neither there is any eye-witness nor direct evidence against these applicants. Taking into consideration the evidence that is proposed against the applicants in both the cases for their prosecution, I am of the considered view that the present is a fit case where the applicants should be benefited with grant of regular bail.

7. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. of the applicants in both the cases are allowed.

8. It is directed that the applicants shall be released on bail on each of them 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 their appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi