

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 4230 of 2018**

Smt. Madhwi Das @ Pammi W/o Late Ramkumar Bareth Aged
About 30 Years R/o Mission Compound, Patel Para, Korba P. S.
Kotwali, District Korba Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, P. S.
Kotwali, District Korba Chhattisgarh

----Non-applicant

For Applicant	:	Mr. Akhtar Hussain, Advocate
For State	:	Mr. Chandresh Shrivastava, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****12/07/2018**

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 53/2018 registered at Police Station Kotwali, District Korba, Chhattisgarh for the offence punishable under Section 302 of Indian Penal Code.
2. The present applicant is in jail since 01.02.2018 in connection with the aforesaid Crime number.
3. The allegation against the present applicant as per the case of prosecution is that the present applicant is said to have assaulted her husband-Kumar Bareth on 31.01.2018, as a result of which he is said to have died.
4. The counsel for the applicant submits that the entire prosecution started at the mere intimation given by the applicant herself. He submits that even if the entire case of the prosecution is accepted in

toto, the offence under Section 302 would not be attracted as in the worst-cum-worst position the applicant could be convicted only for the offence under Section 304(II) or under Section 325 of the Indian Penal Code. He further submits that the eyewitnesses who have been examined before the Court below have not supported the case of the prosecution and have turned hostile and on this ground also the applicant deserves to be released on bail. He further submits that from the proceedings it appears that the applicant used to be tortured and subjected to cruelty at the hands of the deceased very frequently after consumption of liquor and on the date of incident also he is said to have had a fight with the applicant and in the process the present applicant appears to have assaulted the deceased with a *lathi* on his head, on account of which he is said to have succumbed and thus for all these reasons prays for the applicant to be released on bail.

5. The State counsel however opposes the bail application and submits that entire circumstances go against the applicant and even if it is converted into a case under Section 304(II), the applicant has not remained in custody for a sufficient period, on which she may be released on bail.
6. Having heard the contentions put forth on either side and on perusal of the record, particularly taking into account the statement of the eyewitnesses examined before the Court below as also the case of the prosecution, prima facie this Court is of the opinion that the case may not come within the purview of the Section 302 of the Indian Penal Code and at best it may fall under the provisions of Section

304(II) or any other offence under the Indian Penal Code. In the aforesaid circumstances, this Court is of the opinion that prima facie a strong case has been made out for grant of bail to the applicant. Accordingly, the present application for grant of bail is allowed.

7. It is directed that the 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 Court for her appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge

Ved