

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4714 of 2018

- Vivek Kumar Soni S/o Shyamlal Soni Aged About 26 Years R/o- Janjatpara, Namnakala, P.S. Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer, Police Station Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant : Mr. Jitendra Shrivastava, Advocate.

For Respondent : Mrs. Smita Ghai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/07/2018

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.86/2017 registered at Police Station– Ambikapur, District– Surguja(C.G.) for the offence punishable under Section 302 of the Indian Penal Code.
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. No case is made out against this applicant. It is submitted that the independent witnesses, who may be considered as witnesses of oral dying declaration, have stated that deceased made a statement before them that she caught

fire accidentally, only the brother of deceased has made statement of oral dying declaration that deceased disclosed to him that she was burnt by this applicant. No complaint was made by him and no such statement was given by him before the police personnel or prior to the death of deceased on 9.2.2017, which shows the concoction of statement of the witness, hence, it is prayed that no case is made out against this applicant.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that it is a case of heinous offence, hence, he is not entitled for grant of regular bail.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, on the date of incident, deceased and this applicant had a quarrel in connection with the money regarding auto-rickshaw and in that process, this applicant poured kerosene on the body of deceased and set her ablaze. This incident took place on 22.12.2016. The deceased was admitted in the hospital where she died on 9.2.2017. No dying declaration has been recorded in this case. The only evidence against this applicant is the statement of the brother of deceased recorded under Section 161 CrPC wherein he has disclosed that the deceased made an oral dying declaration before him. However, other persons associated with the applicant and the deceased, who have been examined, have not stated anything in this respect.
6. After due consideration on all the material present in the case diary and looking to the evidence that is proposed for his prosecution in this case, I am of this view that this is a fit case where applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha