

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1110 of 2018**

Durgavati Mahant D/o Gopal Das Mahant Aged About 41 Years R/o Purani Basti, Kharsiya P. S. And Tehsil Kharsiya District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Kharsiya District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 1111 Of 2018**

Mohar Sai Dhritlahre S/o Rasiyaram Dhritlahre Aged About 36 Years R/o Mouhapali Kharsiya, Tahsil- Kharsiya, District- Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Station House Officer, Police Station- Kharsiya, District- Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh.

---- Respondents

For the Applicants	:	Shri Amit Sharma and Shri Subham Tripathi, Advocates.
For the Respondent/State	:	Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****02.11.2018**

Heard.

1. Both these applications are being decided by this common order as they arise from the similar incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No.467 of 2018 registered at Police Station – Kharsiya, District Raigarh, for the offence

punishable under Section 314/ 34 of the Indian Penal Code.

2. Learned counsel for the applicants submit that the applicants have been falsely implicated in this case. According to the evidence present in the case-diary, no case is made out against the applicants. The deceased has died due to natural causes. Hence, it is prayed that the applicants in both the cases are entitled for grant of anticipatory bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect.

4. Learned counsel for the Objector has adopted the arguments submitted by the State counsel. It is submitted that applicant – Mohar Sai Dhritlahre in M.Cr.C.(A) No. 1111 of 2018 is a quack, practicing medicine without any qualification and similarly, Durgavati Mahant in M.Cr.C.(A) No.1110 of 2018 though a qualified nurse, is engaged in illegal business of abortion. Hence, the applications be rejected.

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

6. It is alleged that deceased – Kamla Bai Rathia was taken by her husband – Vishnu Prasad Rathia to applicant – Mohar Sai Dhritlahre asking that they want the pregnancy of Kamla Bai aborted. It is said that applicant – Mohar Sai Dhritlahre in M.Cr.C.(A) No. 1110 of 2018 handed over the case to applicant - Durgavati Mahant in M.Cr.C.(A) No. 1111 of 2018, who for the purpose of inducing the abortion had administered some medicine because of which, Kamla Bai became indisposed and was admitted in Metro Hospital

on 23.5.2018, where during the course of treatment she died on 1.6.2018. On the basis of the information received from the hospital, the offence has been registered against the applicants.

7. Perused the contents of the case-diary and taking into consideration the facts that the postmortem report does not disclose any cause of death and the FSL report also does not show any sign of poison or any reason for the death of the deceased, I am of the considered view that in both the cases the applicants deserve to be enlarged on anticipatory bail.

8. Accordingly, the bail applications filed by the applicants in both the cases under Section 438 of the Cr.P.C. are allowed.

9. It is directed that in the event of arrest of the applicants in both the cases in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. They shall also abide by the following conditions:

- '(i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi