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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6786 of 2018

- Aditya Upadhayay S/o Shri Awdhesh Kumar, Aged About 28 Years, Occupation Service (M.S.P. Steel & Power Plant) R/o House No. 4/7 M.S.P. Colony, Jamgaon, P. S. Chakradhar Nagar, Permanent Address M.I.G. B/90 Chirahula Colony, Rewa M.P., District : Rewa, Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Chakradhar Nagar, Tahsil & District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

----Non-applicant

For Applicant – Shri Awadh Tripathi, Advocate.

For Non-applicant/State –Shri Ashok Swarnkar, Panel Lawyer.

Shri U.K.Singh Chandel, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-09-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. His first bail application before this Court was dismissed as withdrawn with liberty to revive the same after filing of the charge sheet. The applicant has been arrested on 02-07-2018 in connection with Crime No.234/2018 registered at P.S. - Chakradhar Nagar, District Raigarh, Chhattisgarh for the offence under Section 306, 201 of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 02-07-2018. The applicant admits that he and deceased Bhawna Pandey had affair between them. The deceased had been on visit to Raigarh and it was at that time she has suffered burn injury on 25-01-2018 and given statement in dying declaration on 26-01-2018 that the burn injury was caused to her accidentally and she gave similar statement to the police under Section 161 of the Cr.P.C. The deceased died during the course of treatment on 14-02-2018 in the hospital at Jabalpur where

she was taken for treatment by her parents. Subsequent to that, father of the deceased has made totally false allegations against the applicant. It is a fact that the deceased has committed suicide, but the applicant cannot be held responsible for the same. Hence, subsequent to filing of the charge sheet, it is prayed that the applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that there is ample evidence in this case showing the conduct of the applicant, because of which, the deceased has committed suicide, which amounts to abetment for commission of that offence. Hence, the application may be rejected.

4. Learned counsel for the objector after adopting the argument advanced by the State counsel submits that according to the statement given by the father of the deceased the applicant had made three statements as to the place of incident, manner of occurrence of the incident which raises serious doubts on the conduct of the applicant. Subsequent to the disclosure that the applicant had been in relation with the deceased, it appears that the deceased was put under some kind of threat by the applicant, because of which she has not made correct statement to the police and the Executive Magistrate. Hence, the applicant is not entitled for grant of bail.

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

6. The case in hand, is this, that deceased Bhawna Pandey suffered burn injury on 25-01-2018 and she was admitted in hospital at Raipur where she gave dying declaration on 26-01-2018 stating that she suffered burn injury accidentally and she gave the same statement to the police. After her death on 14-02-2018 the rest other allegations have been made by her parents. Hence, this case.

7. As the charge sheet has been filed after completion of the investigation

and looking to the evidence present on record, I am of this view that this is a fit case for grant of bail to this applicant.

8. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his 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 his appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge