

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8213 of 2018**

Onkar Prasad Rathore, S/o Shri Balak Ram Rathore, aged about 30 years, R/o Sivni, Ward No.11, P.S. Champa, District Janjgir Champa (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Champa, District Janjgir Champa (CG).

---- Non-applicant

For Applicant	: Mr. Shailendra Dubey, Advocate
For Non-applicant	: Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

15.11.2018

1. This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.284/2018 registered at Police Station Champa, District Janjgir Champa for the offence punishable under Section 304-B of Indian Penal Code.
2. The first bail application of the applicant was rejected on merits by the order of this Court dated 07.05.2018 passed in M.Cr.C. No.1847/2018.
3. Case of the prosecution in brief is that the marriage of the deceased Nisha Rathore was solemnized with the applicant on 18.04.2017. Applicant and said deceased were reside in village Naya Baradwar. On 21.06.2017 in the night said deceased was admitted in Mission Hospital, Champa by the applicant and his family members. She was referred in KIMS Hospital, Bilaspur on 22.06.2017 at about 4:00 pm she died. As per the postmortem report deceased was died due to cardiopulmonary arrest, due to poisoning (insecticidal agent) it was suicidal in nature. After the investigation it was found that applicant was harassing the deceased on account of demand of motorcycle, gas cylinder, washing machine.
4. Counsel for the applicant submitted that the applicant is a innocent person and has been falsely implicated in the present case. He

further argued that any of the ingredients of Section 304(B) of IPC does not attract in the case in hand. At about 06 prosecution witnesses have already been examined before the trial Court. In support of his case, he drew my attention on the certified copy of statement of Savitri Rathore (PW-6). The family members of the deceased had not stated anything against the applicant at the time of merg enquiry hence the applicant may be released on bail in the second bail application.

5. On the other hand, counsel for the State opposed the bail application.

6. After merg enquiry, the statement of father of the deceased was recorded under Section 161 of CrPC wherein he has stated about the demand of dowry by the applicant.

7. What would be effect of the prosecution witnesses as examined by the Trial Court especially Savitri Rathore (PW-6) may be considered by the Trial Court at the time of scrutiny of evidence for final disposal of case. At this stage, it cannot be said that Section 304(B) of IPC does not attract.

8. Looking to the above mentioned facts and circumstances of the case, there is no such change in the circumstances of the case on the strength of which the applicant be released on bail. Consequently, the second bail application of the applicant is rejected.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-