

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8257 of 2018**

Pankaj Kashyap S/o Late Munnalal Kashyap, Aged About 23 Years
Caste -Mahra R/o Geedam Kotwarpara ,police Station Geedam,
district South Bastar Dantewada CG

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, police Station
Geedam, district South Bastar Dantewada CG

---- Respondent

For applicant	Mr. Gautam Khetrapal, Adv.
For Respondent/State	Mr. S.K. Mishra, Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****29-11-2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 74/2017 registered in police station Geedam, Distt. South Bastar, Dantewada (CG) for offence punishable under Section 304-B of the IPC.
3. Case of the prosecution in brief is that applicant and co-accused, her mother used to harass the deceased Smt. Deepika Kashyap on account of demand of dowry. Deceased is wife of the applicant.
4. Marriage of the deceased was solemnized with the applicant. On 4-5-2017 she burned herself in her matrimonial house and died on 11-5-2017 during treatment.
5. Counsel for the applicant argued that the applicant is innocent

and falsely implicated hence he be released on bail.

6. On the other hand, the Panel Lawyer appearing for the State opposed the bail application. However, he submits that no criminal antecedent of the applicant is reported in the police case diary.

7. The father of the deceased Rameshwar, mother Saraswati, sister Sangeeta have turned hostile during examination by the trial Court.

8. The coordinate bench of this Court has granted bail to co-accused Parvati Kashyap who is mother-in-law of the deceased on 31-8-2018. As per prosecution story, allegations levelled against the applicant and co-accused Smt. Parvati Kashyap are identical. There is no difference in the allegations levelled against them.

9. As per certified copy of the order dated 1-10-2018, the Additional Sessions Judge (FTC), Dantewada had knowledge that co-accused Smt. Parvati Kashyap has been granted bail by this Court.

10. In **Deepak Kumar Ratre -v- State of Chhattisgarh**, [2001(2) MPHT 89 (CG)] following judicial precedent has been laid down by this Court in para 9 :-

“The grant of application in favour of some of the accused should earnestly persuade a judicial officer to grant bail to the co-accused if the allegations are identical or there are no material differences in the allegations. This Court had been repeatedly saying that if the allegations are identical or almost similar then similar should be treated similarly. I fail to understand as to why a judicial officer should act arbitrarily and in such a whimsical manner in rejecting the application for grant of bail. If the three named persons were granted bail, by any other judicial officer, then so long as the said order is in existence or is not set aside by any revisional court then such order would provide a foundation in favour of the co-accused for his release. It would be hight of the judicial impropriety to say that because some Judge had granted bail to some of the co-accused, the same

order would not enure to the benefit of the co-accused before any other Judge.”

11. Looking to the facts and circumstances of the case, it transpires that there is no material difference in the allegation leveled against the applicant and co-accused Smt. Parvati Kashyap. Parity demands that if allegations are identical or almost similar or case of the applicant is less severe, then similar or less severe should be treated similarly. Once a co-accused is granted bail then other co-accused whose role is similar or not more severe is also entitled for bail.

12. The Court below did not consider the aforesaid settled legal principle though it should have considered this aspect.

13. The application is accordingly 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/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:-

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

14. CC as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge