

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 2221 of 2019

- Ghanshyam S/o Late Loknath Dahariya Aged About 24 Years R/o Village Chhadiya, Police Station Palari, District- Baloudabazar-Bhatapara, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station-Palari, District- Baloudabazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Smita Jha, Advocate.
For Respondent/State	: Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

17/07/2019

1. The applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime no. 379/2018, registered at Police Station Palari, District Baloudabazar-Bhatapara (C.G.) for the offence punishable under Section 498-A & 304 (B) of the IPC.
2. First bail was dismissed as withdrawn with liberty to file a fresh after four months vide order dated 27.11.2018 passed in MCRC No. 8557/2018.
3. As per prosecution story, the applicant is the husband of the deceased Rajeshwari Dahariya. Their marriage was solemnized before 1 ½ years from the date of incident. On 09.07.2018, the deceased was brought to CHC Palari for treatment as she was blazed by fire. During course of treatment, her dying declaration was recorded by the Executive Magistrate. On 12.07.2018, during treatment she died. Statements of relatives of the deceased were also recorded by the

Police. Allegedly, the applicant used to torture the deceased for demand of dowry due to which she committed suicide. Thereafter, offence under Section 498-A & 304(B) of the IPC has been registered. The applicant is in custody since 30.07.2018.

4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the case. She further submits that *prima facie* no offence under Section 304(B) of the IPC can be made out against him. On the date of incident, the deceased and the applicant had a small quarrel which has been exaggerated by the relatives of the deceased. In her dying declaration also the deceased has nowhere stated that she was tortured by the applicant for demand of dowry, therefore, no offence under Section 498-A is also made out against the applicant. She further submits that material witnesses have also been examined before the Trial Court and trial is still taken some more time, therefore, the applicant may be released on bail.
5. Per contra, learned counsel appearing on behalf of State opposes the bail application and submits that there is sufficient evidence available on record against the applicant, therefore, he may not be released on bail.
6. I have heard learned Counsel for both the parties.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further looking to the dying declaration of the deceased as well as statement of her mother Bhagwanteen, at this stage, this Court is not inclined to release the applicant on bail.
8. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)

Judge