

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**M. Cr. C.(A) No. 661 of 2019**

- Prabhat Ram Shau S/o Shri Falli Ram Sahu Aged About 28 Years Occupation Teacher, Prem Sarovar School, Fasterpur, R/o Village Silli, Police Station Fasterpur District Mungeli Chhattisgarh.,

----Applicant

Versus

- State of Chhattisgarh Through Police Station Fasterpur, District Mungeli Chhattisgarh.

---- Respondent

(Application under Section 438 of the Code of Criminal Procedure)

For Applicant	:	Mr. Keshav Dewangan, Advocate.
For State	:	Mr. Ravish Verma, Govt. Advocate.

(SB : Hon'ble Shri Justice Ram Prasanna Sharma, J)

ORAL ORDER**16-5-2019**

1. The applicant has preferred this bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 35 of 2018 registered in Police Station Fasterpur, District Mungeli (CG) for offence punishable under Sections 306 and 498-A, 302 and 120-B read with Section 34 of the IPC.
2. The case of the prosecution, in brief, is that deceased Smt. Pushpa Sahu who was married to Bhagat Ram Sahu died of

burn injuries on 30-3-2018 at night. The appellant is charge sheeted for commission of murder of the deceased.

3. Learned counsel appearing for the applicant would submit that offence under Section 302 of the IPC is not made out because there is no eye witness account in the present case and no dying declaration was made by the deceased. After framing the charge, prosecution produced evidence of Bohorik (PW/4) and Push Kumar (PW/5) and on the basis of their evidence offence is not made out against the present applicant. He would further submit that the deceased sustained 99% burn injuries and was not in a fit state of mind to state anything. Other co-accused namely Anjori Ram Sahu was granted regular bail and Santosh Kumar has been granted anticipatory bail, therefore, the benefit of anticipatory bail may be extended to the applicant.
4. On the other hand, learned counsel appearing for the State opposing the bail application would submit that as per evidence of Bahorik Sahu (PW/4) and Push Kumar (PW/5) there is evidence against the applicant for commission of murder as the deceased made oral dying declaration against the applicant that he set her ablaze. He would further submit that other co-accused Anjori Sahu and Santosh Kumar have not been granted bail for offence punishable under Section 302 of IPC, therefore, their case is clearly distinguishable from the facts of the present case. therefore, the benefit of anticipatory bail should not be extended to present applicant.
5. I have heard learned counsel appearing for the parties and considered their rival submissions made therein and perused the case diary with utmost circumspection.
6. Looking to the evidence of Bahorik (PW/4) and Push Kumar (PW/5), without further commenting on merits of the case, it

is not a fit case to extend the benefit of anticipatory bail to the applicant.

7. Accordingly, the instant M.Cr.C.(A) is liable to be and is hereby rejected.

Sd/-
JUDGE

Raju