

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3081 of 2019**

- Bhagat Ram Sahu S/o Shri Anjori Ram Sahu Aged About 35 Years R/o Village Silli, P.S. Fasterpur, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through P.S. Fasterpur, District- Mungeli, Chhattisgarh

---- Respondent

 For the applicant : Mr. Keshav Dewangan, Advocate.
 For the respondent/State : Mr. Ravish Verma, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**ORAL ORDER****16-5-2019**

1. This is first bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested on 4-5-2018 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 present applicant 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 applicant may be released on bail.

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, I am not inclined to grant regular bail to the applicant.
7. Accordingly, the instant bail petition is liable to be and is hereby rejected.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju