

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 714 of 2019**

Rajesh Gupta S/o Shri Mahendra Prasad Gupta Aged About 28 Years
Occupation Business, Caste- Baniya, R/o Village Chhindkalo, Police Station
Darima, Tahsil Ambikapur, District Surguja Chhattisgarh., District : Surguja
(Ambikapur), Chhattisgarh.

---- Applicant**Versus**

The State Of Chhattisgarh Through The Station House Officer, Police
Station Darima, District Surguja Chhattisgarh., District : Surguja
(Ambikapur), Chhattisgarh.

---- Respondent

For the Applicant : Shri Neeraj Kumar Mehta, Advocate.
For the Respondent/State : Shri Samdarsh Nirankari, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.05.2019**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 39 of 2019, registered at Police Station – Darima, District – Surguja, Chhattisgarh for the offence punishable under Section 304B of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material placed before the Court by the prosecution. The

wife of the applicant died unnatural death on 31.7.2018. Subsequent to which, in the inquest procedure, none of the parents or other relatives of the deceased made any statement which was recorded, about demand of dowry or any torture given to the deceased. In the later on development, an application was filed under Section 156(3) of the Cr.P.C. and on that basis, the FIR was lodged on 26.3.2019, which is concocted. Firstly, the postmortem report has not disclosed any specific reason regarding the death of the deceased, but later on the query report it was suggested that the deceased may have died due to throttling, which is not conclusive in any manner. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that in the statement under Section 161 of the Cr.P.C. given by the witnesses there is clear allegation regarding demand of dowry and torture given to the deceased and further, in the query report given by the doctor, it appears that it may be a case of murder as well. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Heard counsel for both the parties and perused the case diary.

6. The marriage of deceased – Pragati Gupta with this applicant took place on 12.12.2016. The deceased died unnatural death on 31.7.2018. In the FIR lodged on 26.3.2019, it is alleged that the deceased was subjected to torture for demand of dowry.

7. On perusal of the case-diary, it appears that the statement under Section 161 of the Cr.P.C. has been recorded subsequent to lodging of FIR on 26.3.2019 whereas, in the morgue statement which is the part of the case-diary the same witnesses have stated that they did not know of any complaint made by the deceased. Hence, under these circumstances, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. He shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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.'

Sd/-
(Rajendra Chandra Singh Samant)
Judge