

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4261 of 2019

Smt. Fatima Begum W/o Gaffar Ali, aged about 44 years, R/o Subhash Market, Behind Om Lodge, Khursipar, Bhilai Nagar, P.S. Khursipar, Tahsil And District- Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through P.S.- Khursipar, Tahsil And District- Durg, Chhattisgarh.

---- Respondent

For Applicant : Shri M.P.S Bhatia, Advocate.
For Respondent/State : Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

10/07/2019

1. The Applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as she is arrested in connection with crime No. 74/2019, registered at Police Station –Khursipar, District- Durg (C.G.) for the offence punishable under Section 302/34 of Indian Penal Code.
2. First bail application was dismissed as withdrawn with liberty to file afresh after submission of the charge-sheet before the Sessions Court, vide order dated 16.05.2019 passed in MCRC No.3106/2019.
3. In this case, there are total 02 accused persons. The Applicant is the mother of Tabaraq Ali. As per prosecution story, deceased Nidhi got married with Tabaraq Ali earlier. On 12.03.2019 at around 6.25 p.m. allegedly, due to some dispute Tabaraq Ali and

present Applicant have poured kerosene oil on the deceased Nidhi and set fire, due to which she sustained burn injuries and died. Before her death, her dying declaration was also recorded, on the basis of that, as well as the statement of father of the deceased, offence has been registered and thereafter the Applicant has been arrested on 13.03.2019.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. There is no direct evidence available on record against her, there is no eye-witness present in this case. He further submits that there are two dying declarations of the deceased recorded by the doctors wherein, in her first dying declaration deceased only stated about presence of the present Applicant at the spot and later on in her second dying declaration, she had not told about the Applicant that she has taken active part in the incident. Though, father of the deceased namely Ramkamal has stated that on being informed by one person he reached the spot and have been informed that fire has been set by two persons but the said person from whom the information was received has also not cited as witness. He further submits that charge sheet has been filed and the Applicant is in custody since 13.03.2019 and trial will take some time. Therefore, she may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application and submits that from the statement of father of the deceased involvement of the present Applicant is established, therefore, she may not be released on bail.
6. I have heard learned Counsel for the parties and perused the case diary with due care.
7. Considering the facts and circumstances of the case, the

evidence collected by the prosecution and further considering the fact that the Applicant is in custody since 13.03.2019 and trial will likely to take some time, without further commenting on merits of the case, I am inclined to release the Applicant on bail.

8. Accordingly, the bail application is allowed.
9. It is directed that the Applicant shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for her appearance before the said Court as and when directed.

Sd/-

(Arvind Singh Chandel)
Judge