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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5198 of 2019**

Santoshi W/o Vijay Aged About 27 Years R/o Ward No. 03, Santoshinagar, Village - Bhimkhoj, Police Station- Khallari, Tahsil- Baghbahrah, District - Mahasamund, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Mahasamund, District - Mahasamund, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 5207 Of 2019**

Santoshi W/o Vijay Aged About 27 Years R/o Ward No. 03, Santoshinagar, Village - Bhimkhoj, Police Station- Khallari, Tahsil- Baghbahrah, District - Mahasamund, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Station House Officer, Mahasamund, District - Mahasamund, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Siddarth Rathod, Advocate.
For the Respondent/State	:	Shri Jitendra Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****18.09.2019**

Heard.

1. Both these applications are decided by a common order as they arise from the same incident. These are the first bail applications of the applicant filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime Nos.398 of 2003 and 399 of 2003, registered at Police Station Mahasamund, District – Mahasamund, Chhattisgarh for the offence punishable under

Sections 147, 148, 149, 460, 307, 326 and 302 of the Indian Penal Code and Sections 25/ 27 of the Arms Act.

2. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. At present, her age is shown to be 32 years in the arrest memo which is mentioned in the order-sheet of the trial Court and this incident has taken place in the year 2003. Therefore, on the date of incident, the applicant was a minor aged about 16 years and she can be regarded as a juvenile offender. Other than that, the facts of the prosecution case indicate that this applicant had not participated in the offence of commission of murder. The applicant has a child of one year which is in jail alongwith the applicant. The trial against the applicant is almost withheld for the reason that the record of the case is not available in the trial Court. Some of the co-accused persons who have been tried and convicted, have been released on bail after suspension of sentence by the Supreme Court. Hence, it is prayed that the applicant in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that there is specific mention of name of the applicant in FIR of both the cases and there is evidence regarding her participation in the commission of crime, therefore, she is not entitled for grant of bail in both the cases.

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

5. In Crime No. 399 of 2003, it is alleged that in the night of 26.8.2003 the other accused persons including this applicant formed an unlawful assembly and then forcibly entered into the house of the complainant. The accused persons were armed with deadly weapons who assaulted and caused death of deceased – Ravi Telgu and also attempted to cause death of other victims. After lodging of FIR, the case has been registered and the charge-sheet has been filed in absconsion of this applicant.

In Crime No. 398 of 2003, it is alleged that on the date of incident the accused persons alongwith this applicant formed an unlawful assembly and then forcibly entered into the house of the complainant armed with deadly weapons and then all of them assaulted and caused death of deceased – Dukalu and also attempted to cause death of the other victims. Charge-sheet was filed against the other accused persons showing this applicant was absconding.

Although the age of the applicant in both the charge-sheets filed is shown to be 19 years but the arrest memo shows at present her age to be of 32 years, therefore, there appears to be a question of age which may be determined by the trial Court when the trial makes progress.

6. On perusal of the copy of the order-sheets filed in both the cases, it appears that the trial is almost withheld because of non-availability of the record. Considering the fact that some of the accused persons who have been convicted have been granted bail by the Supreme Court and also considering the reason that this applicant is a woman with a child in jail presently, therefore, I feel inclined to grant regular bail to the applicant in both the cases.

7. It is directed that applicant shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- in respect of each crime with one surety in the like sum to the satisfaction of the concerned trial Court, for her appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge