

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5182 of 2019**

1. Rupendra Bagh S/o Samuel Bagh Aged About 55 Years,

2. Sunita Bagh W/o Rupendra Bagh Aged About 53 Years,

Both are R/o H.No. 171, Sector-2, Kashiram Nagar, Telibandha, P.S.-
Telibandha, District- Raipur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Police Thana- Vidhan Sabha, Raipur,
District- Raipur, Chhattisgarh.

---- Respondent

For the Applicants	:	Ms. Sharmila Singhai, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****29/08/2019**

1. This is the third bail application of applicant No.1 Rupendra Bagh and fourth bail application of applicant No. 2 Sunita Bagh under Section 439 of the CrPC.
2. Earlier first bail application of applicants was rejected by this Court on 07/09/2018 in MCRC No. 5930/2018 considering *prima facie* case against them. Their second bail application was rejected by this Court on 11/12/2018 in MCRC No.8918/2018 considering *prima facie* case against them. Her third bail application was rejected by this Court on 06/03/2019 in MCRC No. 724/2019 considering *prima facie* case against her.
3. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.274/2018 registered at Police Station Vidhan Sabha Raipur, District Raipur (C.G.) for the offence punishable under Section 306/34 of IPC.
4. Case of the prosecution, in brief is that deceased Prafull Dubey was aged about 36 years old on the date of incident. He was resident of Housing Board Colony, Dhansuli. The deceased

demanding his loan amount from co-accused Vikram Bagh then co-accused Vikram Bagh and his brother and the present applicants misbehaved with the deceased due to which deceased Prafull Dubey committed suicide on 14/06/2018 by hanging himself. The present applicants are father and mother of co-accused Vikram Bagh. As per the suicidal note co-accused Vikram Bagh, applicants, brother of the co-accused insulted him and they are responsible for his suicidal.

5. Counsel for the applicants submitted that they are innocent and falsely implicated in the present case. Counsel for the applicants further submitted that applicants are in jail since 01/08/2018, only one witness father of the deceased namely Hari Prasad Dubey has been examined. Trial is delayed. Co-ordinate Bench has granted bail to co-accused Vivek Bagh. Father of the deceased did not say anything against the applicants in his Court's statement, thus they may be released on bail. She drew my attention on para 3,4,5,8 of the true copy of the statement of PW-1 Hari Prasad Dubey.
6. On the other hand, learned counsel for the State opposes the bail application and submitted that there is no previous antecedent against the applicants.
7. Earlier applicants bail applications have been rejected by this Court on considering *prima facie* merits of the case. Thus the case of applicants are distinguishable from the case of co-accused Vivek Bagh.
8. As per the statement of Prasanna Dubey recorded by Police under Section 161 of CrPC applicants, co-accused Vikram Bagh, co-accused Vivek Bagh had misbehaved with deceased and threatened him kill. Prasanna Dubey is not examined by the trial Court he is to be examined.
9. This is well settled legal principle that while dealing the bail application Court neither can scrutinize the evidence nor appreciate. This is also settled legal position that at this stage defence cannot be looked into.
10. Statements of some witnesses, delay in trial, detention period, may be considerable facts for the disposal of the bail application,

but seriousness of the offence, impact of granting of bail on society and other factors are also considerable facts for disposal of the bail application.

11. Looking to the gravity of the offence, looking to the seriousness of the alleged offence, looking to the impact of granting bail to the applicant on society, this Court finds that mere these facts that some witnesses have been examined, applicants are in jail for long period, trial is prolonged, this Court is not inclined to give the benefit of Section 439 of CrPC to applicants in this round of litigation.
12. Consequently, bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde