

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1686 of 2020**

- Gulab Bai Wife Of Ghasiya Chouhan Aged About 60 Years Residence Of Village Naraibodh, Thana Kusmunda, District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station - Kusmunda, District Korba Chhattisgarh

---- Respondent

For Applicant	:	Shri Vikas Pandey, Advocate
For State	:	Shri Ravish Verma, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****14/08/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.462/19 registered at Police Station – Kusmunda, District – Korba (C.G.) for alleged commission of offences under Section 302, 201/34 of IPC.
2. Prosecution case is that the deceased Mahendra was maintaining illicit relation with co-accused Phoolbai. On 13/11/2019, he came to the house of Phoolbai in Village - Naraibodh. The applicant was insisting Phoolbai to have sexual intercourse which was denied and a dispute arose in the house of Phoolbai whereafter, Phoolbai (the co-accused), present applicant (mother of Phoolbai) and Ramkumar (brother of Phoolbai) caught hold of Mahendra, assaulted and then smothered his mouth due to which, Mahendra died of Asphyxia. Further allegation is that the dead body of Mahendra was dragged out and thrown in the well situated in the campus of one Budhwardas.
3. Learned counsel for the applicant would argue that involvement of the applicant is not based on any admissible evidence brought by the prosecutrix by way of charge sheet but it is based only on suspicion and except the story contained in the

memorandum of the accused which is not admissible in evidence, there is no other clinching evidence available. Therefore, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes and submits that the prosecution witness namely Nawdha and Pyarelal stated that Mahendra disclosed them that he was having an affair with Phoolbai and was intending to marry her very soon. On 13/11/2019, Mahendra told this witness that he was going to meet Phoolbai on that day, he had borrowed bicycle of Pyarelal also stating that he is going to meet Phoolbai. It is stated that over telephone Mahendra informed Pyarelal that he is sitting in the house of Phoolbai. Thereafter, whereabouts of Mahendra was not known. Then on 19/11/2019, dead body of Mahendra was found in the well in the campus of one Budhwardas who is resident of Village – Naraibodh which is the place of resident of applicant – Gulab Bai also. He further submits that a club has been seized from the house of the applicant which was used for giving assault on Mahendra. Therefore, *prima facie*, case is made out.

5. On *prima facie* considerations and the material disclosed by learned State counsel, as contained in the case diary, involvement of the applicant is based on memorandum of the accused. Recovery of club from the house of the applicant has not been stated to be stained with blood. The prosecution has not collected the soil from the house of the applicant or sent for FSL report to find out presence of blood. Moreover, the charge sheet does not contain any evidence of any of the villager of Naraibodh having seen Mahendra (the deceased) in the house of the present applicant. Therefore, considering the above material, present is a fit case for grant of bail.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the Trial Court on the condition that -

- a) She shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) She shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge