

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 7247 of 2020**

1. Raja Mallah, son of Santosh Mallah, aged about 22 years
2. Santosh Mallah, son of Shivnarayan Mallah, aged about 42 years
3. Laxmin Mallah, w/o Santosh Mallah, aged about 40 years
4. Rani Mallah, wife of Ramesh Mallah, aged about 35 years

All r/o Ward No.09, Police Station Gandai, Tahsil Chhuikhadan, District
Rajnandgaon CG

---- **Applicants (In Jail)**

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station Gandai,
District Rajnandgaon Chhattisgarh

---- **Respondent**

For Applicants	: Shri CK Kesharwani, Advocate
For Respondent/State	: Shri Sidharth Dubey, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

17.12.2020

1. At the outset, Shri CK Kesharwani, learned counsel for the applicants submits that he is not pressing bail application of applicant-1, namely, Raja Mallah.
2. In view of above, this bail application so far as it relates to applicant-1 Raja Mallah, is dismissed as not pressed.
3. Applicants have preferred this application under Section 439 CrPC for grant of regular bail as they have been arrested in connection with Crime No.140 of 2020 registered at Police Station Gandai, District Rajnandgaon CG for the offence punishable under Section 304-B/34 of the IPC.
4. Case of the prosecution in brief is that deceased Asha Bai was married with Raja Mallah, applicant-1 on 09.03.2019. After her marriage, she lived happily with her in-laws for sometime and thereafter, her husband, father-in-

law, mother-in-law and *kaki saas* (Aunt-in-law) were harassing for demand of Motorcycle. Deceased on her visit to her parental house during the festive season, stated the fact of demand of Motorcycle by her in-laws. On 17.05.2020 at about 3 pm, deceased Asha Bai consumed poison. She was taken to the District Hospital, from where she has been referred to higher hospital for better treatment. She was admitted to Balaji Hospitals at Raipur on 18.05.2020, where during the course of treatment, she died on 20.05.2020. After merging enquiry, Police registered the crime against the present applicants as mentioned above.

5. Shri CK Kesharwani, learned counsel for the applicants submits that there is no specific allegation against the present applicants but general allegations have been levelled against them. He further pointed out that as per the allegations against the present applicants, is only demand of Motorcycle. He further pointed out that the deceased after date of incident on 17.05.2020 was conscious but her statement was not recorded. He also pointed out that Aunt-in-law is residing separately.

6. Shri Sidharth Dubey, learned Dy Government Advocate for the State opposing the submission made by learned counsel for the applicant submits that on the date of admission to the District Hospital, deceased was semi-conscious and thereafter, she became unconscious, as evident from the statement of father of the deceased, who was present at the Hospital. Hence the submission of learned counsel for the applicant that dying declaration has not been recorded purposefully, is not correct. He further submits that in statement recorded by the Police under Section 161 of the CrPC, mother and father of deceased very categorically stated

about the complaint made by their daughter with regard to demand of Motorcycle hence the charge levelled against the applicants is made out and the applicants are not entitled for the benefit under Section 439 of the CrPC.

7. I have heard learned counsel for the parties.

8. Taking into consideration entirety of facts of the case, nature of allegation levelled against all the applicants, there is no specific act of attribution alleged against the in-laws, without commenting on merits of the case, I am inclined to enlarge the applicants on bail.

9. Accordingly, the bail application is allowed. It is directed that the applicants namely, **Santosh Mallah, Laxmin Mallah and Rani Mallah** be released on regular bail upon furnishing a bail bond in the sum of Rs.10,000/- (Rupees ten thousand) each with one surety in the like sum to the satisfaction of the Court below concerned on the condition that:

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

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE