

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5837 of 2020**

- Saurabh Soni S/o Shri Naresh Soni Aged About 24 Years Occupation Labour, R/o Village Ghutrapara, P.S. And Tahsil Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- **Petitioner****Versus**

- The State Of Chhattisgarh Through The Station House Officer, Police Station Ambikapur, District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- **Respondent****MCRC No. 6633 of 2020**

- Smt. Pooja Soni W/o Late Shri Vinay Soni Aged About 25 Years R/o Mahalpara Baikunthpur District Korea, Presently Residing At Mahamayapara, Mahamayatalab Ke Piche, Nahar Road, Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- **Petitioner****Versus**

- State Of Chhattisgarh Through Police Station Sadar Ambikapur District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- **Respondent**

For Applicants : Shri Neeraj Mehta and Shri Ajay Kumrani, Advocates
 For Respondent/State: Shri Gagan Tiwari, Dy.GA

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****19/10/2020**

Heard.

1. This common order shall govern disposal of M.C.R.C.No.5837 & 6633 of 2020 as both bail applications arise out of the same crime number.
2. The applicants have moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.343/2020

registered at Police Station Ambikapur, District Surguja for the offence punishable under Section 306/34 of the IPC. The applicant in M.Cr.C.No.5837/2020 was arrested on 13-07-2020 and the applicant in M.Cr.C.No.6633/2020 was arrested on 04-09-2020

3. Case of the prosecution is that the deceased was the wife of applicant (Sourabh Soni). She was extremely harassed as her husband had indulged in extra-marital relationship with the co-accused Pooja Soni. The deceased was also subjected to cruelty, in respect of which, compromise had taken place on 08-03-2018, but she again lodged a report on 16-03-2020 that she was assaulted by her husband and also that he was maintaining extra-marital relationship. Later on, the prosecutrix committed suicide leaving behind a suicidal note that her husband has extra-marital relationship and he was not giving divorce to her nor taking any further steps towards break-up of relationship.

4. Learned counsel for the applicant would argue that from the suicidal note left behind by the deceased, it is apparent that the main operative reason for committing suicide was that the applicant(Sourabh Soni)was having extra-marital relationship with the co-accused Pooja Soni and not alleged cruelty. He would submit that in almost similar circumstances, in the case of ***K. V. Prakash Babu vs. State of Karnataka, (2017) 11 SCC 176***, it has been held that no case of abetment would be made out and as there are no specific or serious or sustained allegations of cruelty, that by itself would not amount to abetment. It is lastly submitted that at this stage, when investigation is complete and charge sheet has been filed, the applicants may be granted bail.

5. On the other hand, learned State counsel opposes the bail applications by submitting that merely, it is not a case that the deceased committed suicide because of her husband having extra-marital relationship, but she was also subjected to cruelty, in respect of which, compromise had taken place on 08-03-2018, but she again lodged a report on 16-03-2020 ventilating grievance of extra-marital relationship against her husband with co-accused Pooja Soni as also cruelty.

6. What has been stated in the dying declaration shows that the main operative reason for commission of suicide by the deceased was that her husband was having extra-marital relationship. The applicant has arguable case that as far as allegation of cruelty is concerned, that would at the most, amounted to commission of offence under Section 498-A of IPC, but not

amounted to commission of offence under Section 306 of IPC. Therefore, taking into consideration the submission of learned counsel for the parties and the law laid down by the Supreme Court in the case of **K. V. Prakash Babu** (supra) and the fact that investigation is complete and charge sheet has been filed, I am inclined to enlarge the applicants on bail.

7. Accordingly, both the bail applications (M.Cr.C.No.5837 & 6633 of 2020) are allowed. It is ordered that the applicants shall be released on bail on each of them furnishing a personal bond of Rs.25,000/- along with two local surety of the like amount to the satisfaction of the concerned trial Court on the condition that they shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

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