

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6609 of 2020

- Sukhdev S/o Rajaram Kaushal Aged About 50 Years R/o Village Kareli, P.S.- Suhela, Tahsil- Simga, District- Balodabazar Bhatapara, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through- Station House Officer Suhela, District- Balodabazar Bhatapara, Chhattisgarh

---- Respondent

MCRC No. 6657 of 2020

1. Tilak Kaushal, S/o Chandrabhan Kaushal, Aged About 26 Years,
2. Chandrabhan S/o Rajaram Kaushal, Aged About 61 Years,
3. Kavita W/o Dhaniram Kaushal, Aged About 28 Years,
4. Menka W/o Deepak Kumar Kaushal, Aged About 30 Years,

All R/o Village Kareli, Police Station - Suhela, Tahsil - Simga,
District - Balodabazar Bhatapara Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, Through - Station House Officer Suhela, District : Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

For Applicants	:	Shri A.S. Rajput, Advocate.
For Respondent/State	:	Shri Vimlesh Bajpai, Dy. G.A.

Hon'ble Shri Gautam Chourdiya, J
Order On Board

01.12.2020

1. As both the MCRC No.6609/2020 and MCRC No.6657/2020 are arising out of same crime number, they are being disposed off

by this common order.

2. The applicants have preferred this application under Section 439 of Cr.P.C. as they are in jail since 02.09.2020 in connection with Crime No. 101/2020 registered in Police Station – Suhela, Distt. Balodabazar Bhatapara (CG) for the offence punishable under Sections 307, 34, 302, 147, 149 and 506 of the IPC.
3. The case of the prosecution in brief is that on 12.06.2020 at about 12.30 p.m. when the complainant Kiran Koshley along with her five months old daughter was in her home and her husband had gone out, her brother-in-law (*Jeth*) Dhani Ram Koshley and (*Devar*) Deepak Koshley came there. Accused Deepak Koshley caught hold off her hands and co-accused Dhani Ram Koshley poured kerosene on her and set her on fire saying that she used to quarrel with her *Jethani* frequently. In the said incident, her five months old daughter also caught fire. After some time, her husband came back and extinguished the fire. However, during treatment deceased Kiran Koshley succumbed to the burn injuries. On the basis of the aforesaid incident the report has been lodged by the injured complainant, offences under the aforesaid sections has been registered against the co-accused Dhani Ram Koshley and Deepak Koshley and during investigation involvements of the present applicants being found the crime in question, they have also been arrested.
4. Learned counsel for the applicants submits that the applicants are innocent persons and have been falsely implicated in this case. The names of the applicants do not find place in the FIR filed by the injured complainant. In her statement under Section 161 of Cr.P.C. the deceased had clearly stated against the co-accused persons and not the present applicants. Likewise, in her dying declaration the deceased has nowhere alleged against the present applicants. The applicants are in jail since 02.09.2020, the charge-sheet has been filed and there is likelihood of trial taking some more time for conclusion, therefore, the applicants be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application.
6. In the totality of facts and circumstances of the case, the contents of the FIR lodged by the deceased herself and her dying declaration as also her statement recorded under Section 161 of Cr.P.C. wherein she has made allegations only against her brothers-in-law namely Dhani Ram Koshley and Deepak Koshley and that the present applicants have been arrested on the basis of the statement of the witnesses recorded two months after the incident, considering the detention period of the applicants and the fact that the conclusion of trial may take some time, the application is allowed. It is directed that in the event of applicants executing a personal bond for a sum of Rs.25,000/- with two sureties (each of them) for the like amount to the satisfaction of the concerned Trial Court, they shall be released on bail. They are directed to appear before the trial Court on each and every date given to them by the said Court, till disposal of the trial.

Sd/-
(Gautam Chourdiya)
Judge

Yasmin