

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 7211 of 2020

- Harkeshwar Dhruw, S/o Narayan Dhruw, aged about 30 years, R/o Village Behrabuda, Police Station & District Gariyanand (CG)

---- Applicant

Versus

- State of Chhattisgarh, through Police Station Gariyaband, Revenue District Gariyanand, Civil District Raipur (CG)

---- Non-applicant

For Applicant	:	Mr. Pragalbh Sharma, Advocate
For Non-applicant	:	Mr. Ashsih Tiwari, Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

16.12.2020

1. This is first bail application of the applicant under Section 439 of the Code of Criminal Procedure, 1973 as he is in custody since 29.6.2020 in connection with Crime No.63/2020 registered at Police Station Gariyabandh, District Gariyaband (CG) for commission of the offence punishable under Section 306 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 8.9.2019 at about 7 p.m. Girija Bai, wife of applicant, poured kerosene and set herself ablaze. She was taken to the hospital where her dying declaration was recorded in presence of the Executive Magistrate in which she has stated that she has attempted suicide on account of quarrel, beating and harassment meted out to her by applicant after consuming liquor. On the basis of this dying declaration, the offence was registered against the present applicant and he has been taken into custody.
3. Mr. Pragalbh Sharma, learned counsel for the applicant submits that allegations levelled against the applicant by the deceased in her dying declaration are of normal wear and tear of married life; the acts alleged are said to have been done by applicant after consumption of alcohol and not in normal condition. He also submits that the applicant is having two minor children and there is no one to look after them. He submits that applicant

has not committed the offence as alleged against him and he is in custody since 29.6.2020. Hence, he may be extended benefit under Section 439 of CrPC.

4. On the other hand, Mr. Ashish Tiwari, learned Government Advocate for the State opposes the submissions made by learned counsel for the applicant and submits that there is specific allegation against present applicant of harassing and beating the deceased which compelled her to commit suicide by setting herself ablaze. He also referred to the statements of father of applicant, two neighbourers, mother & sister of deceased to show that the applicant has been continuously harassing the deceased. Hence, the applicant is not entitled for benefit of bail.
5. I have heard learned counsel for the parties.
6. Taking into consideration the entirety of facts and circumstances of case, nature of allegations, in particular the dying declaration of deceased, without commenting anything upon the merits of case, I am inclined to enlarge the applicant on regular bail. Accordingly, the bail application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) he shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-