

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1298 of 2021**

Damleshwar Janghel S/o Budharu, Aged About 30 Years (As Mentioned In The Impugned Order) R/o Pahadi Lodhipara, Poilce Station Gudhiyari, District Raipur Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through - Station House Officer, Police Station Gudhiyari, District Raipur Chhattisgarh

---- Non-applicant

 For Applicant : Shri Amiyakant Tiwari, Advocate
 For Non-applicant/State : Shri Vaibhav Singh, Panel Lawyer

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**12.07.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 20.01.2021 in connection with Crime No.19 of 2021 registered at Police Station Gudhiyari, District Raipur (C.G.) for commission of offence punishable under Section 304-B of the Indian Penal Code.
2. Case of the prosecution, in brief, is that the deceased Pemin Bai was married to the present applicant in July 2017 and thereafter she started residing in her matrimonial house. After some time of the marriage, present applicant under the influence of liquor and also on the pretext of demand of dowry, used to assault the deceased-wife and further threatened her to oust from her matrimonial house. Prior to one year of incident, on the basis of

complaint made by the deceased to her parents, one meeting was convened at village Amlidihkala i.e. parental house of the deceased where applicant and his father were also present. After exhortation the in-laws, the deceased was again sent back to her matrimonial house. On 10.08.2020 in the afternoon, deceased hanged herself and committed suicide. The merg was reported by the applicant to the concerned police station. On 20.01.2021, FIR was registered against the present applicant for the offence punishable under Section 304-B of the IPC.

3. Shri Amiyakant Tiwari, learned counsel for the applicant submits that the allegation with regard to demand of dowry is false and baseless. The applicant is working as welder and he has prepared iron plates on the roof of his house. Applicant's mother and wife brought down the iron plats and thereafter, applicant went to his another house located in another area of the city. After some time, he received a phone call from his mother that his wife committed suicide by hanging herself. He further submits that the date of incident is 10.08.2020 but FIR has been registered on 20.01.2020 and the reason assigned for delay in registering the FIR is after merg inquiry, but no proceeding or document showing the merg inquiry conducted by the police has been placed as part of the charge-sheet. It is contended that the statement of witness recorded under Section 161 of Cr.P.C. is only in the month of February 2021 with regard to holding of meeting in vilalge panchayat i.e. village Amlidihkala i.e. parental house of the deceased prior to one year. There is no allegation of demand of

dowry just prior to the date of incident to connect or to show the proximity of time of demand of dowry with the deceased. The charge-sheet has been filed under Section 304-B of the IPC and as per the allegation levelled against the present applicant under Section 161 of Cr.P.C. by mother that prior to one day, she received a phone call from her daughter that she was being assaulted by the applicant on the pretext of demand of dowry cannot be accepted as police has not called for the call details when there is specific allegation that the mother of deceased received a phone call from her daughter and even the call details of uncle has not been called for who received a phone call from deceased four days prior.

4. Shri Vaibhav Singh, learned State Counsel opposes the prayer for grant of bail and submits that in the statement recorded under Section 161 of the Cr.P.C., specific allegation is levelled against the present applicant with regard to demand of dowry. Not only the mother and uncle, but one villager and Sarpanch of the village panchayat Amlidihkala have stated that the meeting was convened on the ground of harassment and ill-treatment given to the deceased by the applicant for demand of dowry. He further submits that delay in registering the FIR has been mentioned on the ground of completion of merg inquiry.
5. However, putting a specific query as to whether any proceeding recorded by the police of merg inquiry is forming part of the charge-sheet or not, he submits that no document is available in the charge-sheet to show any proceeding of the merg inquiry. On

putting specific query with regard to calling of call details of the mother and uncle of the deceased, he submits that though the call details were requisitioned, but call details are not forming part of the charge-sheet and on further query, he submits that in the postmortem report, no external injury was found by the doctor conducted postmortem of the dead body of the deceased.

6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, further, in the statement, the mother and uncle of deceased have specifically stated that they have received phone call just one day prior to the incident, but no call details have been collected by the Investigating Agency, no external injury has been found by the doctor on the dead body of the deceased, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
8. Accordingly, the 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.25,000/- (Rupees Twenty Five Thousand only) with one local 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

Anu