

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.2027 of 2021**

- Khorbahara Sahu S/o Akalu Sahu Aged About 54 Years R/o Village Rivagahan Post Ranitarai, Tahsil Patan, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Police Station Ranitarai, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondent

For Applicant	:	Shri KPS Gandhi, Advocate
For Respondent/State	:	Shri Anurag Verma, Panel Lawyer

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****06/08/2021**

Heard.

1. This is second bail application for grant of bail. Earlier bail application filed by the present applicant was dismissed as withdrawn on 19.08.2020.
2. The applicant has been arrested in connection with Crime No.44 of 2020 registered at Police Station-Ranitarai, District Durg (CG) for the alleged commission of offence under Section 306, 34 of IPC and 4,5 & 7 of Tonhi Pratarna Act.
3. Prosecution case is that the applicant and other co-accused harassed and tortured the deceased Kirtan Bai by branding her as "Tonhi" and levelled allegations of playing witchcraft on grand daughter of the Khorbahara, due to which, Kirtan Bai committed suicide.
4. Learned counsel for the applicant submits that present application has been moved only on behalf of Khorbahara Sahu one of the co-accused. He would argue that on the date of incident, it is alleged that the present applicant had also accompanied the other co-accused, but even according to the

prosecution case, the allegation of playing witchcraft was on the grand daughter of another co-accused and not any of the relative of present applicant. He would next submit that in the suicidal note allegedly left behind by the deceased before committing suicide, there is no allegation against the present applicant subjecting the deceased to any torture or harassment of such a degree so as to drive her to commit suicide. In the present case, the investigation is complete, charge-sheet has been filed, the applicant is in jail since 20.03.2020 and even after lapse of more than 1 year, there is no material progress in the trial nor likely to take place because of present pandemic situation. Therefore, at this stage, the applicant may be granted bail as the offences alleged against the present applicant are not punishable with life imprisonment.

4. On the other hand, learned counsel for the State opposes the prayer and submits that though in the suicidal note name of the present applicant has not been specifically mentioned, but, in the statement of other prosecution witnesses, who were present at the time when Khorbahara, Vijay Sahu arrived in the house of the deceased, their allegation that both of them abused and scolded the deceased stating that she had played witchcraft on the grand daughter of Khorbahara and harassed by such a torture, due to which, deceased committed suicide, even prima facie case against the present applicant is also made out.

5. Having heard learned counsel for the parties and taking into consideration the material contained in the case diary and read out before the Court by the State counsel and other including charge-sheet, it prima facie reveals that the suicidal note allegedly left behind by the deceased before committing suicide make out any specific allegation against the present applicant. Moreover, the statement of the prosecution witnesses do not appear to be coherent with regard to role of the present applicant. The prosecution case is that the entire episode of the harassment was as a result of allegation made by Khorbahara

against the deceased that the deceased had played witchcraft on his granddaughter. Investigation is complete, charge-sheet has been filed, the applicant is in jail since 20.03.2020 and trial has not been concluded till date. Therefore, taking into consideration the totality of the circumstances, nature of material produced against the present applicant and further taking into consideration that offences alleged against the present applicant are not punishable with life imprisonment, the bail application is allowed.

6. Accordingly, it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:

(i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and

(ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

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