

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.1712 of 2021

- Naresh Patel, S/o Shatrughan Patel, aged about 31 years, R/o village and post Pirda, Police Station Basna, Tahsil Pithora, District Mahasamund (CG)

---- Applicant (In jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police of Police Station Basna, District Mahasamund (CG).

....Non-applicant

For Applicant	:	Mr. Kishore Narayan, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Government Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

16.7.2021

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who is in custody since 8.12.2020 in connection with Crime No.571/2020 registered at Police Station Basna, District Mahasamund (CG) for commission of offence punishable under Section 304-B, 34 of the Indian Penal Code.
2. As per case of the prosecution, on 7.8.2020 at about 11:00 a.m. Dinesh Patel informed parents of Meena Patel (since deceased) that Meena Patel is brought to the hospital as she has consumed some poisonous substance. Upon receiving information, parents of deceased reached hospital where Meena Patel told them that she was assaulted by present applicant in the morning, she is regularly being harassed and

abused, physically & mentally, for demand of dowry due to which she has consumed poisonous substance. After the merg inquiry, instant crime is registered against present applicant and his parents for aforementioned offence.

3. Mr. Kishore Narayan, learned counsel for applicant submits that parents of deceased have made false and baseless allegations against present applicant with regard to ill treatment and assault for demand of dowry. He submits that the deceased had consumed poisonous substance (pesticide), which is easily available in the house of a person engaged in farming activities. Referring to Annexure A-2 to bail application, he submits that dying declaration of deceased was recorded and prior to recording of dying declaration, opinion of the doctor was sought with regard to condition of deceased, the doctor has opined that she is normal and conscious. He submits that in the dying declaration, deceased has not made any allegation of assault, abuse and harassment for demand of dowry, but has mentioned that there was dispute with her husband on trivial issues. He submits that from perusal of dying declaration it is evident that no offence, as alleged against present applicant, would be made out. Applicant was arrested on 8.10.2020, hence, he may be enlarged on regular bail.
4. Mr. Vimlesh Bajpai, learned State Counsel opposes the submissions made by learned counsel for applicant. He read out contents of FIR in support of his submissions and submitted that there are specific allegations with respect to

mental and physical harassment to the deceased for demand of dowry. He submits that after merging enquiry, instant crime is registered against present applicant and his parents. Applicant is not entitled to be released on regular bail. However, he does not dispute the fact that one memo is written by the SHO seeking opinion of the doctor whether patient (deceased) is in a fit condition to give her statement or not and on 7.8.2020 at about 8.00 p.m., doctor has opined that patient is conscious and in a fit condition to give her statement.

5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations levelled against present applicant, the contents of dying declaration of deceased recorded on 7.8.2020 bearing her signature, wherein she has stated that due to trivial issues and disputes she consumed pesticide (Safachat) and there is no allegation in dying declaration with regard to mental or physical harassment on the ground of demand of dowry, without commenting anything on merits of case, I am inclined to release applicant on regular bail.
7. Accordingly, the application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- 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 applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

8. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-