

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 2656 of 2021

- Smt. Hembai, W/o Heeraman Lal Sahu, Aged About 50 Years, R/o Village Munjakala, Thana Gaindatola, Tahsil / District Rajnandgaon, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- District Magistrate, Police Station Gaindatola, District- Rajnandgaon, Chhattisgarh.

---- Non-Applicant

MCRC No. 4250 of 2021

1. Hiranman Sahu, S/o Kunwar Singh Sahu, Aged About 51 Years,
2. Toman Sahu, S/o Hiranman Sahu, Aged About 27 Years,

Both are R/o Gram Munjakala, Gandatola, P. S. Tehsil Churiya, District Rajnandgaon Chhattisgarh **---- Applicants**

Versus

- State of Chhattisgarh, Through- In-Charge, Police Station, Gaindatola, Rajnandgaon, Chhattisgarh. **---- Non-Applicant**

For Applicants : Shri Samir Singh and Shri Anup Majumdar, Advocates

For Non-Applicant/State : Shri Priyanshu Gupta, Panel Lawyer

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

15.07.2021

- 1) Since both these cases arise out of same crime number, they are being disposed of by this common order.
- 2) After arguing for sometime, learned counsel appearing in MCRC No. 4250 of 2021 for the applicants seeks to withdraw this application with liberty to file afresh as and when occasion

arises.

- 3) Accordingly, the application (MCRC No. 4250 of 2021) is dismissed as withdrawn with the liberty as stated above.
- 4) The applicant Smt. Hembai has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as she is in jail since 07.02.2021 in connection with Crime No. 04/2021 registered at Police Station- Gaiindatola, District- Rajnandgaon (C.G.) for the offence punishable under Section 304-B, 498-A read with 34 of IPC.
- 5) Case of the prosecution, in brief, is that marriage between the deceased and accused- Toman Sahu was solemnized on 28.04.2018. After marriage, the present applicant Smt. Hembai alongwith other co-accused persons ill-treated the deceased in connection with demand of Rs. 1,00,000/- and they did not provide medical treatment to her. On 03.12.2020 the deceased told her mother through mobile phone that kitchen was locked by their in-laws, she was not provided food and on same day the deceased committed suicide by pouring kerosene upon her and during course of the treatment she died. During the investigation it revealed that the deceased was not willing to lodge report against their in-laws and wanted to resolve her family matter with the help of *panch* of the village.
- 6) Learned counsel for the applicant- Smt. Hembai submits that the applicant is an innocent person and has been falsely implicated. The prosecution has not collected any material which constitute the offence under Section 304 B of IPC against the applicant. The incident took place on 03.12.2020 and the deceased died on 08.12.2020 whereas the report was lodged with an inordinate delay on 19.01.2021 without any explanation for the same. The applicant is in jail since 07.02.2021 she is 50 years old and was residing separately with her husband, the charge-sheet has already been filed, the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding and due to Covid-19

pandemic, trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.

- 7) On the other hand, learned counsel for the State vehemently opposing the bail application and submits that there are sufficient material available in the case diary in the form of statements of relatives of the deceased as well as the independent witnesses showing the involvement of the applicant in the crime in question and as such she is not entitled to be released on bail.
- 8) Heard learned counsel for the parties.
- 9) Janki Bai who is mother of the deceased in her case diary statement has specifically stated that the deceased was being tortured and ill treated by the present applicant alongwith other co-accused persons in connection with demand of Rs. 1 lakh and the applicant also used to brutally beat her. She states that two three times village meeting was convened for resolving the dispute where the *panchas* and elderly people of the village advised the applicant, husband of the deceased and her in-laws for living peacefully but even thereafter, the deceased was continued to be treated with cruelty by the applicant alongwith other co-accused persons, as a result of which, she committed suicide by pouring kerosene on her. Similar is the statement of the father of the deceased Girdhari Lal. This apart the independent witnesses Devnarayan Sahu has also stated that the deceased was being harassed and tortured by the present applicant Smt. Hembai alongwith other co-accused persons in connection with demand of dowry. Domar Singh Sahu, brother-in-law of the deceased also stated that the deceased was ill-treated in connection with demand of dowry by the applicant alongwith other co-accused persons.
- 10) Having regard to the facts and circumstances of the case, considering the fact that marriage of the deceased was solemnized on 28.04.2018 and within two and a half years, she committed suicide by pouring kerosene on her, statements of the

relatives of the deceased as well as that of the independent witnesses wherein they have specifically stated about the cruel treatment being meted out by the applicant to the deceased alongwith the other co-accused persons in connection with demand of dowry, on number of occasions village meeting was convened to resolve the dispute but even thereafter the cruelty against the deceased continued and ultimately she committed suicide by pouring kerosene on her on 03.12.2020, without commenting anything on merits of the case, I am not inclined to release the applicant on bail.

- 11) Accordingly, the application filed on behalf of Smt. Hembai i.e. MCRC No. 2656 of 2021 is rejected.

Sd/-

(Gautam Chourdiya)
Judge

Nadim