

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.4638 of 2021**

- Dinesh Kumar Khunte, S/o Ramesh, Aged About 25 Years, R/o Village Tulsidih, Police Station Dabhra, District Janjgir Champa, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Dabhra, District Janjgir Champa, Chhattisgarh

---- Respondent

For Applicant
For Respondent

Mr. Ishwar Jaiswal, Advocate
Mr. A. K. Verma, PL

Hon'ble Justice Shri Parth Prateem Sahu**Order On Board****03/12/2021**

1. Applicant has filed this first bail application under Section 439 of CrPC for grant of regular bail, as he has been arrested in connection with Crime No.544/2020, registered at Police Station Dabhra, District Janjgir-Champa (C.G.) for the offence punishable under Section 304-B of IPC.
2. Case of prosecution is that applicant and prosecutrix got married in the year 2016. They are having two children. On 06.08.2019 at about 9 am, deceased Seema Khunte, wife of applicant, set her ablaze in her matrimonial house. Merg was reported to the concerned police station. Based on merg enquiry, FIR was registered against applicant and he was arrested on 05.06.2021.

3. Mr. Jaiswal, learned counsel for the applicant, would submit that false and baseless allegations have been levelled against applicant to implicate him in the criminal offence. Marriage of the applicant with deceased is shown to be of the year 2016, which is not correct. He has filed birth certificate of children of applicant issued by the Office of the Deputy Registrar (Birth and Death), wherein birth of the first child has been mentioned as 17.10.2015 and place of birth is also mentioned as K.G. Hospital, Raigarh. Love marriage of the applicant with deceased was performed in the year 2013, hence the offence under Section 304-B would not be attracted. FIR was registered after a period of 1 year and 4 months from the date of incident. Initially, parents of the deceased have not levelled any allegation against the applicant. Earlier also prosecutrix left the house of the applicant, she filed a complaint before the concerned police station. The complaint was forwarded to the Family Counseling Centre, where she stated that she does not want to stay in the company of applicant, as he abuses and assaults her under the influence of liquor and under intoxicated condition. It is also stated by her that she does not want to keep her children with her and wants divorce. The counseling proceeding is part of the charge sheet and aforementioned fact is narrated in the counseling proceeding dated 10.12.2016. On that day, there was no allegation of demand of dowry by the applicant. Later on the deceased levelled allegation of demand of dowry of Rs.2 Lakhs and motorcycle in the proceeding dated 31.12.2016. The applicant's family and deceased family belong to labour class, hence prima facie the allegation of demand of Rs.2 Lakhs itself is false and has been levelled to implicate the applicant in the criminal offence. He

also pointed out that in the merg enquiry statement of the father of deceased namely Prem Lal Tandon, it has also come that before incident, deceased resided in the company of the applicant happily for a period of one year, during that period, from their wedlock, they were blessed with a second child, which itself shows that the allegation is absolutely false and baseless. He also pointed out that two children, who are aged about 6 years and 3 years, are residing in the house of the applicant and there is no one except the applicant to take proper care of them and to maintain them.

4. Mr. Verma, learned State counsel, would oppose the submission of learned counsel for the applicant and would submit that in the statement recorded during the course of merg enquiry of Prem Lal Tandon (father of deceased), Radha Tandon (mother of deceased) and Arvind Khunte (uncle of deceased), allegation of demand of dowry has been levelled against applicant and also of ill treatment, harassment and assault, hence applicant is not entitled for benefit of bail. However, learned State counsel does not dispute the counseling proceeding read over by the counsel for the applicant dated 10.12.2016, wherein no allegation has been levelled with regard to demand of dowry.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of material collected by Police during the course of investigation, as also the family counseling proceeding, which is said to be part of the charge sheet, applicant is in jail since 05.06.2021 and applicant is having two minor children, aged about

6 years and 3 years, without commenting anything on the merits of the case, I am inclined to release the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon his furnishing a personal bail bond for a sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Trial Court on the conditions that:-

(a) The applicant shall appear before the Trial Court regularly on each and every date unless exempted from appearance.

(b) The applicant shall not, in any manner, tamper with the prosecution witnesses.

(c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
Parth Prateem Sahu
Judge

Nirala