

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 820 of 2021

Ishrar Khatun @ Babli @ Israt Jahan W/o Mohd. Saleem, Aged About 35 Years, (D/o Mohd. Ali), Caste- Musalman, R/o : village- Bhourahi, Police Station- Surajpur, Tahsil- Bhaiyathan, District- Surajpur, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station- Surajpur, District- Surajpur, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Achut Tiwari, Advocate.
For Respondent-State	: Mr. Vimles Bajpai, GA.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

29/07/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending her arrest in connection with Crime No.85/2021 registered at Police Station –Surajpur, Distt- Surajpur, (CG), for the offence punishable under Sections 302/34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that deceased Kulsum was married to Mohd Hussain. On 05.02.2021, Kulsum suffered burn injuries, she was immediately taken to D.K.S. Hospital, Raipur where during the course of treatment, she succumbed to the injuries on 16.02.2021. During the course of merge inquiry, based on the statement of brother of deceased Naseem Uddin Ansari, instant crime was registered against present applicant and Mohd Hussain husband of deceased.
3. Learned counsel for the applicant submits that Mohd Hussain and his wife Kulsum were having cordial relationship and they were having 3 children from their wedlock namely Mohd Gausul aged about 21 years, Tarannum Fatima Ansari aged about 13 years and one Tabassum Ansari aged 18 years old. The allegation of extra-marital relationship of husband of deceased is absolutely false and baseless. Brother of deceased was not present on spot but even then false and concocted story has been narrated by him stating that co-accused

Mohd Hussain husband of deceased poured Kerosene Oil upon deceased and applicant lit fire through match box, whereas, present applicant was not even present on the spot ie house of deceased where she was residing with her husband and children alongwith mother-in-law. Hence, applicant may be extended benefit under Section 438 of Cr.P.C.

4. On the other hand, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that in the statement of brother of deceased, there is specific allegation that deceased during the course of her treatment at hospital had intimated the fact of incident took place to him. On the basis of intimation received by him from deceased, he intimated the same to the Police, based upon which, instant crime was registered. During the course of argument, he also read over the statement of Tarannum Fatima Ansari daughter of deceased who was present at the time of incident on spot. However, on putting a specific query whether the dying-declaration of deceased was recorded or not, he replied that dying-declaration of deceased is not available in the case diary.
5. Heard learned counsel for the parties.
6. Statement of Tarannum Fatima Ansari would show that in her knowledge there was no dispute resulting in assault between her father and mother. On the date of incident, oral dispute took place between them on the ground that her mother (deceased) also wanted to go alongwith her father (Mohd Hussain) to his place of employment to which, his father refused. She was watching television and her mother was working in the kitchen at that time there was failure of electricity and after some time she heard the scream of her mother from kitchen. She rushed there and saw that her mother was surrounded with fire, thereafter, she was taken to hospital. Dying-declaration was not recorded during the course of treatment of deceased for about 11 days in the hospital.
7. Considering the entire facts and circumstances of the case, nature of allegation levelled against present applicant, statement of Tarannum Fatima Ansari

daughter of deceased who was present in house at the time of incident, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions :

- (i) that applicant shall make herself available for interrogation before the Investigating Officer as and when required;
- (ii) that applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-