

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5927 of 2021**

1. Phoolkunwar W/o Pavitraram Khalkho Aged About 71 Years
2. Taramuni D/o Pavitraram Khalkho Aged About 32 Years

Both Caste- Uraon, R/o Village- Dignagar, Tahsil And Ps- Rajpur, District- Balrampur- Ramanujganj, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station- Rajpur, District- Balrampur- Ramanujganj, Chhattisgarh

---- Respondent

For Applicants	: Shri Amarnath Pandey, Advocate
For Respondent/State	: Shri Aditya Tiwari, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

27.10.2021

1. At the outset, Shri Amarnath Pandey, learned counsel for the applicants submits that he is not pressing bail application with respect to Applicant-2, Taramuni at this stage and seeks permission of this Court to withdraw the same with liberty to repeat her case at appropriate stage.
2. Prayer is allowed and application with respect to applicant- 2 Taramuni is dismissed as not pressed with aforementioned liberty.
3. Applicant-1 Phoolkunwar has preferred this application under Section 439 of CrPC for grant of regular bail as she was arrested in connection with Crime No.79 of 2021 registered at Police Station-Rajpur, District- Balrampur, Chhattisgarh for the offences punishable under Sections 294, 307, 323, 506 and 34 of IPC.
4. Case of the prosecution, in brief, is that on 19.04.2021 at about 12 noon, Pavitraram Khalkho, husband of applicant came on Motorcycle along with

Dhaneshwar near well, where complainant-Tejram was taking bath. They have some exchange of words with regard to not permitting Pavitraram Khalkho for fishing. Thereafter, Pavitraram Khalkho went back to his house. When Tejram was returning back to his house after taking bath, Pavitraram Khalkho came again from his house along with his wife- Phoolkunwar, son- Sunil and daughter- Taramuni and assaulted Tejram and his mother by means of *Gadasa*. Present applicant- Phoolkunwar also abused and threatened complainant- Tejram and his mother. In the incident, three persons, namely, Tejram, Pradeep and Jugobai were injured and admitted in Hospital for treatment of injuries. Report was lodged on the same day, based upon which, aforementioned crime is registered against Pavitraram Khalkho, Phoolkunwar, Taramuni and Sunil.

5. Shri Amarnath Pandey, learned counsel for the applicant submits that applicant is female member, aged about more than 70 years. She has been implicated falsely in the case. There may be some dispute between complainant- Tejram, Pavitraram Khalkho and Sunil but only to implicate all family members, false allegations have been levelled against Phoolkunwar also. She has not participated in the incident in any manner. He further submits that considering age of applicant- Phoolkunwar, and period of her detention, she may be enlarged on regular bail.

6. Shri Hari Om Rai, learned State counsel opposing the submissions of learned counsel for the applicant, submits that statement of Manmatiya, who is an independent witness to the incident stated that

along with Pavitraram Khalkho and Sunil, applicant followed them and assaulted injured persons by hands and fists. Applicant also abused and threatened injured persons of their life. He further submits that there is also complaint against present applicant that she threatened witness of her life, if she gives evidence against them. Hence, applicant – Phoolkunwar is not entitled for regular bail under Section 439 of CrPC.

7. I have heard learned counsel for the parties.

8. Taking into consideration nature of allegations levelled against applicant, allegation of assault by means of Gadasa is against Pavitraram Khalkho and Sunil, age of applicant- Phoolkunwar is mentioned as 71 years in arrest memo also, without commenting anything on merits of the case, I am inclined to enlarge applicant- Phoolkunwar, on regular bail.

9. Accordingly, bail application with respect to **applicant-1 Phoolkunwar**, w/o Pavitraram Khalkho is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

1. Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
2. Applicant shall not in any manner, tamper with the prosecution witnesses.

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

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma