

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR***Proceedings through Video Conferencing*****MCRC No. 5768 of 2021**

- Raju Dahariya S/o Budharu Dahariya Aged About 32 Years R/o Village Chicha, Police Station Mandir Hasoud, District Raipur Chhattisgarh

---- Applicant
In Jail

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mandir Hasoud, District Raipur Chhattisgarh

---- Respondent

For Applicant	:	Shri Rahim Ubwani, Advocate.
For State	:	Shri Chitendra Singh, P.L.

Hon'ble Shri Gautam Chourdiya, J

Order On Board**27/08/2021**

The applicant has preferred this first bail application under Section 439 of CrPC as he is in jail since 10.6.2021 in connection with Crime No.85/2021 registered at Police Station–Mandir Hasoud, Distt. Raipur (CG) for the offence punishable under Sections 294, 506B, 323, 306 of IPC.

02. Case of the prosecution, in brief, is that on 2.3.2021 at around 7 am when the complainant/deceased Smt. Ganga Dahariya found the rice bag missing from her house, she enquired about the same from her husband Raju Dahariya (applicant herein) and alleged that he would have consumed liquor by selling the said rice bag. On this, the applicant abused her filthily and started beating her with club and also threatened to kill her by pouring kerosene on her. Being enraged, the deceased poured kerosene on her body and set herself ablaze. On

report being lodged to the above effect, offence under Sections 294, 506B & 323 of IPC were registered, however, during treatment she succumbed to the burn injuries on 7.3.2021 which led to addition of Section 306 of IPC.

03. Learned counsel for the applicant submits that the applicant is an innocent person and has been falsely implicated in this case. As per the statements of the deceased, her father, daughter and other witnesses it is clear that over a trivial dispute of selling of rice by the applicant, the deceased during quarrel with the applicant lost control over her senses and having poured kerosene on her body despite the applicant's resistance, set herself ablaze. As such, the ingredients necessary for attracting the offence u/s 306 of IPC are extremely missing in this case. The applicant is languishing in jail since 10.6.2021, he has no criminal antecedents; charge sheet has already been filed; there is no apprehension of the applicant tampering with the prosecution evidence or absconding and due to Covid-19 conclusion of the trial is likely to take some time. Therefore, the applicant may be released on bail.

04. On the other hand, learned counsel for the State opposes the bail application.

05. Heard learned counsel for the parties.

06. From the case diary it reveals that marriage of the applicant with the deceased was solemnized around 15 years ago from the date of incident and out of their wedlock three children were born. In her statement under Section 161 of CrPC recorded on the date of incident itself i.e. 2.3.2021, the deceased stated that as the rice bag kept by her

was missing from the house, there was quarrel between her husband/applicant and herself and during this, on being threatened by her husband of killing her by pouring kerosene on her body, she got enraged and set herself on fire by pouring kerosene on her body. Ku. Divya Dahariya, daughter of the applicant and the deceased and an eyewitness to the incident, stated that the deceased had herself poured kerosene on her body whereas the applicant was trying to snatch away the kerosene container from her and that soon after this incident, the applicant himself took the deceased to Kalda Hospital, Raipur for treatment. Sevaram Satnami, father of the deceased, has also stated that upon coming to know about the incident through Ku. Divya Dahariya when he reached the Kalda Hospital, Raipur, he was informed by the deceased that during the quarrel with the applicant, she out of anger set herself ablaze by pouring kerosene on her body.

07. Thus, considering the facts and circumstances of the case, the fact that marriage of the applicant with the deceased was solemnized around 15 years prior to the date of incident, out of their wedlock three children were born; the statement of deceased Ganga Dahariya, her daughter Ku. Divya Dahariya, who is an eyewitness to the incident, her father Sevaram Satnami and other witnesses which show that the deceased herself set her on fire by pouring kerosene on her body over a trivial dispute regarding selling of rice bag by the applicant; the detention period of the applicant who is 32 years old; charge sheet has already been filed; there is no criminal antecedents of the applicant or any likelihood of his tampering with the evidence or absconding as admitted by both the counsel and due to COVID-19 pandemic conclusion of trial may take some time, without commenting anything

on merits of the case, the application is allowed. It is directed that in the event of the applicant executing a personal bond for a sum of Rs.1,00,000/- (Rupees One Lac) with two sureties of Rs.50,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- (i) he 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 fact to the Court,
- (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- (iv) he shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant violating any of the aforesaid conditions.

Sd/

Gautam Chourdiya
Judge