

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.8428 of 2020

Tamin Bai W/o Birendra Kumar Halba, Aged About 32 Years R/o Faradbor,
Police Station Dewari, Tahsil Dondi Lohara, District - Balod Chhattisgarh.,
District : Balod, Chhattisgarh **---- Applicant**

Versus

State Of Chhattisgarh Through, S H O Police Station Dewri District Balod,
Chhattisgarh., District : Balod, Chhattisgarh **---- Respondent**

For Applicant	:	Shri B.P. Singh, Advocate
For Respondent/State	:	Shri Mateen Siddiqui, Dy. G.A.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

19/03/2021

Heard.

1. The applicant has been arrested in connection with Crime No.138/2020 registered at Police Station- Dewri, District Balod (CG) for the alleged commission of offence under Section 302, 323, 115 of IPC.
2. Case of the prosecution is that the applicant has been involved in the commission of murder of one Sarita by co-accused Birendra.
3. Learned counsel for the applicant would argue that in the entire charge-sheet, there is absolutely no evidence of any abetment whatsoever. The sole witness of the case Narendra has stated that the injury was inflicted on the deceased by co-accused and merely because the applicant being the first wife of the co-accused, that by itself, is not an incriminating circumstance against the applicant. He further submits that in fact, the present applicant was initially made a prosecution witness and case diary statement is also recorded but only on the basis of a note left by the deceased, she has been involved.
4. On the other hand, learned counsel for the State opposes the bail application and submits that the applicant is being tried for commission of offence of murder along with co-accused and allegations of grave in nature. He would

next submit that though the eyewitness do not involve the present applicant in the alleged commission of offence as such, the deceased before her death, left a note, in which, she stated that both co-accused should not be left unpunished as the accused have made it difficult for her and her children to live. Therefore, this prima facie shows that the deceased was being harassed by the applicant as well as co-accused both.

5. On prima facie consideration, the prosecution case has reflected from the FIR and case diary statement of so called eyewitness Narendra show that it is the co-accused who assaulted one of the two wives at home. Neither he nor any witness of the prosecution has involved the present applicant in the alleged commission of offence of murder. The allegation of abetment against the applicant is based only on written note only contents that deceased wrote that accused should not be left unpunished as they have made difficult the life of the deceased and her children miserable. Except, this there is no other material.
6. Without further commenting upon the merits of the case, taking into consideration the aforesaid material, present appears to be a fit case for grant of bail to the applicant. The application is allowed.
7. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge