

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 8446 of 2020

Ram Prasad, S/o Bhola Paikra, aged about 60 years, R/o Vill. Kusu Police Station Darima, Tehsil Ambikapur, Distt. Surguja (C.G.)

---- Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station – Darima, Distt. Surguja (C.G.)

---- Non-applicant

For Applicant : Mr. Manoj Mishra, Advocate.
For Non-applicant/State : Mr. Lalit Jangde, P.L.

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. 31 of 2020 registered at Police Station – Darima, Distt. Surguja (C.G.) for the alleged commission of offence under Sections 302 & 201 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that the applicant was maintaining illicit relation with another lady, due to which, there used to be frequent quarrel between applicant and his deceased wife. It is alleged that on 2nd January, 2020 applicant assaulted his wife (since deceased) with *lathi*, due to which, she sustained buttock injuries and succumbed to these injuries.
3. Learned counsel for the applicant would submit that applicant has been involved in the alleged commission of offence by concocting a so called

eye witness – Jotan Sai, whose case diary statement under Section 161 Cr.P.C. has been recorded after almost four months of the date of incident. He would further submit that except this statement, there is no other incriminating material available on record to show that applicant has assaulted his deceased wife. The seizure of club from the applicant is not the incriminating circumstances, because it is not found to be sustained with any blood. Even from the spot, nothing has been seized to *prima facie* involved that it is the applicant, who murdered his own wife.

4. On the other hand, Counsel for the State would submit that the statements of the prosecution witnesses are to the effect that the applicant was having illicit relation with another lady and that was the cause of quarrel between the applicant and his deceased wife.
5. I have heard learned counsel appearing for the parties.
6. On *prima facie* consideration, this Court finds that the basis for involvement of the applicant is statement of so-called eye witness – Jotan Sai, resident of the village of the applicant/accused. The alleged incident of assault is said to have taken place on 2.1.2020. The dead-body was recovered from jungle on 5th January, 2020. Merg intimation was given on that very day by the son of the deceased. Merg enquiry was opened by the Police and an FIR against unknown persons was registered on 28.03.2020. Till that time, there was nothing against the present applicant. The basis for involving the applicant is a statement under Section 161 Cr.P.C. recorded on 17.04.2020 of one Jotan Sai, who claims to be the eye witness to the incident, which happened as back on on 2.1.2020. In addition to this, there is no other eye witness of the incident nor there is recovery of any article from the applicant, which is said to be stained with the blood. Therefore, considering the aforesaid aspect of the matter and the material, on which basis the applicant is alleged to be involved in the commission of offence, present is a fit case to released the applicant on bail.

7. Accordingly, the bail application is allowed.
8. 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.

Sd/-

(Manindra Mohan Shrivastava)

Judge

D/-