

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8841 of 2020**

- Kanchan Bai Agariya W/o Mohitram Agariya, Aged About 43 Years R/o Village Nagoi (Lafa), Police Station Pali, Tahsil Pali, District Korba Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through District Magistrate, Korba, District Korba Chhattisgarh

---- Respondent

For Applicant	:	Shri Dharmesh Shrivastava, Advocate
For State	:	Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****12/04/2021**

Heard.

1. The applicant has been arrested in connection with Crime No.144/2020 registered at Police Station – Pali, District – Korba (C.G.) for alleged commission of offences under Section 302 & 201 of IPC.
2. Prosecution case is that a fight took place between the applicant and her husband – Mohitram on 18/02/2018. Mohitram was drunken, he was assaulting the applicant and then he fell down. Thereafter, the applicant picked up a club and assaulted her husband - Mohitram, as a result of which, he died.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated after a long period of more than 1½ years in the alleged commission of offence. He would argue that merger intimation was lodged on 18/02/2018 at the instance of a Ward Boy who has stated that as per the statement of Rohit Kumar, brother of the deceased, Mohitram died due to an accident. He submits that statement of villagers were recorded which included Kaushal, Prahlad and others but none of them involved the applicant in the alleged commission of offence. Thereafter, in the month of December, 2019, number of statements were again recorded as supplementary statements of those very persons who had earlier not involved the present applicant and

then on the basis of belated statements recorded after more than 1½ years, eye witnesses have been concocted and the applicant has been involved.

4. On the other hand, learned State counsel opposes prayer and submits that initially, it was reported to be a case of accident as per merg intimation. Eye witnesses of the incident did not initially disclose the name of the applicant but when investigation went on, in the month of December, 2019, Kaushal, Prahlad, Dhansingh and Babulal came out stating that they had seen the incident wherein the deceased assaulted his wife and the applicant assaulted her husband due to which Mohitram died. It is submitted that Kaushal and Prahlad were also examined under Section 164 CrPC and they have supported the prosecution case.

5. On *prima facie* consideration, as is disclosed from the contents of the case diary, Mohitram was admitted in the hospital and in the hospital, it was informed by Rohit Kumar, brother of the deceased that the deceased sustained injury due to accident. At that time, when case diary statements were recorded in the month of February, 2018, none of the witnesses involved the present applicant nor any of them stated regarding assault given by the applicant to the deceased. It appears that in the month of December, 2019, supplementary statements were recorded by the investigating officer and the witnesses including Kaushal, Prahlad, Dhansingh and Babulal started claiming themselves as eye witness of the incident and have seen giving assault to the deceased by the applicant and their statement under Section 164 CrPC was recorded on 24/06/2020. Learned State counsel could not point out any other material evidence against the present applicant except the statements of Kaushal, Prahlad, Dhansingh and Babulal who have emerged as eye witnesses of the incident after more than 1½ years. Therefore, present is a fit case for grant of bail.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on her 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 Trial Court on the condition that -

- a) She shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) She shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge