

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9051 of 2020

Ashok Soni S/o Ramavtar Soni Aged About 50 Years R/o School Road, Ambikapur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Kotwali , Ambikapur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

MCRCA No. 1670 of 2020

Vishal Soni S/o Ashok Soni Aged About 24 Years R/o School Road, Ambikapur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station, Kotwali, Ambikapur District Sarguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicants	:	Shri Surendra Singh, Senior Advocate with Shri Manoj Paranjpe, Advocate
For State	:	Shri Lalit Jangde, Dy. Govt. Advocate

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

Order On Board

27/08/2021

Heard.

1. MCRC No.9051 of 2020 and MCRCA 1670 of 2020 are being disposed off by

this common order as both the applications arise out of Crime No.505 of 2020 registered in Police Station- Kotwali, Ambikapur, District- Sarguja C(G).

2. Applicant- Ashok Soni has prayed for grant of regular bail as he is arrested in connection with alleged commission of offence punishable under Section 304-B read with Section 34 IPC, whereas applicant -Vishal Soni has prayed for grant of anticipatory bail as he is apprehending his arrest in connection with alleged commission of offence punishable under Section 306, 34 IPC.
3. Case of the prosecution, in brief, is that the deceased was married to Vishal Soni on 11.5.2018 and it is alleged that in connection with demand of dowry, she was being subjected to harassment and cruelty in many ways and on 25.03.2019, she was found dead in the matrimonial house in suspicious circumstances and it is said that she died by hanging.
4. Learned counsel for the applicants would argue that the entire case of the prosecution has been concocted on the suspicion that deceased must have been killed by the applicants whereas the material which have been collected during investigation does not disclose that the applicants ever subjected the deceased to cruelty much less causing death of the deceased. Learned senior counsel would argue that the medical report in the form of autopsy report prepared by the doctor does not indicate that it was a case of any homicidal death. He submits that various queries which have been made and which formed part of the case diary and charge sheet, nowhere indicate that it was a case of any assault and murder, but the medical evidence only reveals that it was a case of suicide by the deceased. It is next submitted that the deceased left suicidal note and plain reading of that suicidal note makes it clear that the deceased had no grievance against the present applicants and for reasons best known to her, she wanted to end her life by committing suicide. The handwriting expert report by comparing the specimen writing collected through reliable sources with the writing of suicidal note prima facie shows that the suicidal note was written by the deceased and the suicidal note was seized immediately after the incident by the police during investigation and the specimen writing were also seized during investigation and sent to handwriting

expert for opinion. Learned senior counsel further submits that even though no case was being made out in connection with alleged incident which happened on 25.3.2019, long after the incident, on 7.9.2020, FIR was lodged making false allegation of commission of offence under Section 304-B IPC and the statements of mother, father and uncle were recorded as late as on 14.1.2021 in which, for the first time, they came out with the stereotype allegation in connection with the demand of dowry and cruelty before death of the deceased. He would, therefore, submit that the applicants have been falsely implicated and in the absence of even any prima facie material of torture or harassment, no case is made out much less that under Section 304-B IPC.

5. On the other hand, learned counsel for the State opposed the applications and submits that though initially offence was not registered, mainly because of morgue enquiry conducted after death, later on, offence was registered on 7.9.2020 and statement of the parents and relatives were recorded who all stated that the deceased was being subjected to cruelty stating that she had not brought Rs.1 lakh and that she was being allowed in the matrimonial house merely because she was carrying. Learned counsel for the State submits that on the face of the deceased, two simple injuries antemortem in nature were found which renders the death of the deceased quite suspicious and it cannot be definitely said that it was a case of suicidal only and as far as suicidal note is concerned, the said matter requires to be considered during trial but as the applicants have been involved in the alleged commission of offence, which is grave in nature, they are not entitled to grant of bail at this stage.
6. I have considered the submissions made by learned counsel for the respective parties and material contained in the charge sheet and case diary as divulged before this Court during the course of hearing by learned counsel for the State.
7. On prima facie consideration, it appears that the deceased died due to hanging in the matrimonial house. The postmortem report does not, however, indicate that it was a case where the deceased was murdered and then dead body was hanged. No serious injuries have been found on the body much less any fatal injury as a result of which it could be said that the deceased succumbed to

death.

8. The suicidal note was seized by the police soon after the incident from the room where the deceased was found hanging and that suicidal note along with the seized specimen handwriting one from father of the deceased and other from husband of the deceased were sent for examination of the handwriting expert and handwriting expert's report, on the records of the parties, prima facie shows that handwriting as contained in the suicidal note and in the specimen writing are one and the same. The contents of the suicidal note prima facie reflects that the deceased had taken a decision to end her life for reasons which have not been disclosed, but it contains recital that she has no grievance against her husband or other relatives and she has even praised them.

Lastly, this Court finds that even though incident happened on 25.3.2019, no offence was registered until 7.9.2020 i.e. long after the date of incident and the case diary statements of mother, father and relatives were recorded on 14.1.2021 wherein allegation of demand of dowry are made for the first time.

9. In view of above consideration, this Court is of the opinion that the applicants have made out a case for grant of bail.
10. Accordingly, both the applications are allowed and it is directed:-

(A) that **Applicant - Ashok Soni** 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.

(B) that in the event of arrest of the **Applicant- Vishal Soni** in

connection with the aforesaid offence, he 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 arresting officer, with following further conditions that: -

(i) the applicant shall make himself available for interrogation by the police officer as and when required;

(ii) the applicant 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 from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen