

IN THE HIGH COURT OF MADHYA PRADESH AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 9th OF MARCH, 2022

MISC. CRIMINAL CASE No. 11839 of 2022

Between:-

**NARAYAN S/O NANURAM KUMAWAT , AGED ABOUT 27 YEARS,
OCCUPATION: AGRICULTURE VILALGE BHANGARH SARDARPUR
(MADHYA PRADESH)**

.....PETITIONER

(By Shri Nitin Parashar, Advocate)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER
THROUGH POLICE STATION SARDARPUR (MADHYA PRADESH)**

.....RESPONDENTS

(By Shri Kapil Mahant, learned PL)

This M.Cr.C. coming on this day, the court passed the following:

ORDER

This is first application under Section 439 of Cr.P.C. filed on behalf of the applicant for grant of bail. The applicant is implicated in connection with Crime No. 95/2020 registered at Police Station-Sardarpur District Dhar (MP) for offence punishable under Sections 304B/34 of IPC. The applicant is in custody since 20.2.2020.

As per prosecution story, deceased Paru was married to present applicant Narayan in the year 2017. Out of said wedlock one son was borne who is now 3 years of age. It is alleged that deceased was being harassed physically and mentally by her husband and in-laws for demand of dowry. On account of said harassment and provocation on 14.2.2020 she committed suicide by hanging herself, therefore, crime has been registered under Section 304B and 34 of IPC.

Learned counsel for the applicant contended that applicant is innocent person and he has been falsely implicated in this offence. He is in custody since 20.2.2020, investigation is over and six witnesses have been examined before the trial court but final conclusion is likely to take a long sufficient time. The applicant is sole bread earner of his family and permanent resident of District Dhar. Hence he prays that applicant be released on bail.

Learned PL for State has opposed the bail application and prays for its rejection by submitting that sufficient evidence is available on record against the present applicant and marshalling of prosecution witnesses cannot be done at the stage of consideration of bail.

Perused the case diary and the documents filed alongwith the bail application.

On perusal of the documents, it is revealed that deceased had committed suicide within 5 years of her marriage. Marshalling of prosecution witnesses is not permissible at the stage of consideration of bail as per judgment of Hon'ble Supreme Court in the case of **Satish Jaggi Vs. State of Chattisgarh & Ors.** (Cr.A. No.651/2007) decided on 30.07.2007 wherein it has been held as under:-

“At the stage of granting of bail, the Court can only go into the question of prima facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial.”

As per the law laid down by the Hon'ble Supreme Court in **Satish Jaggi** (supra), this Court can only go into the question of the prima facie case established for granting bail. At the stage of consideration of bail, this Court cannot go into the question of credibility and reliability of the witnesses put up by the prosecution

In view of the evidence available on record, as above, without commenting upon the merits of the case, at this stage, the present applicant does not deserve for grant of bail.

The present M.Cr.C. filed by applicant under Section 439 of Cr.P.C. is accordingly dismissed.

Certified copy as per rules.

(Anil Verma)
Judge

BDJ