

# The High Court Of Madhya Pradesh

MCRC-44960-2020

(KALLU AHIRWAR AND OTHERS Vs THE STATE OF MADHYA PRADESH)

**Jabalpur, Dated : 25-11-2020**

**Heard through Video Conferencing.**

Shri R.S. Patel, Advocate for the applicants.

Shri Brijendra Kushwaha, P.L. for the respondent-State.

This is first bail application filed by the applicants under Section 439 of the Code of Criminal Procedure.

The applicants are in custody since 30.08.2020 in connection with Crime No.339/2020, registered at Police Station-Dehat, District-Tikamgarh (M.P.) for the offence punishable under Sections 304(B), 498-A & 34 of IPC alongwith Section 3/4 of Dowry Prohibition Act.

As per prosecution story on 25.05.2020, Kranti (since deceased) aged 19 years was burnt in fire. She was admitted in hospital. During medical treatment, she has died on 28.05.2020. Marg was registered. During investigation, it is found that marriage of deceased Kranti was solemnized on dated 12.03.2020 with son of present petitioners Govind Ahirwar, thereafter, present applicants-accused and co-accused demanded Rs. 50,000/- as dowry from the deceased. Due to non-fulfillment of dowry, petitioners and other co-accused persons tortured and humiliated her. So, she committed suicide.

Learned counsel for the applicants submits that applicants are in jail since 30.08.2020. Applicants have been falsely implicated in this case. Petitioners are father-in-law and mother-in-law of deceased. He further submitted that the dying declaration of deceased was recorded in which she itself admitted that at the time of incident, she was cooking food in the kitchen. On the rack, a bottle filled with kerosene was kept fell down on her head due to which she burnt. She did not deposed anything against the present applicants-accused. Thereafter, during treatment, on 28.05.2020, she has died. Statement of her father was recorded on 04.09.2020 with delay of 4 months which shows that there is false implication of the applicants in the present case. There is general allegation of demand of dowry and cruelty against the applicants. Applicants-accused are in jail since 30.08.2020. Charge-sheet has been filed. It is time of COVID-19, so proceedings before the trial Court is withheld and conclusion of trial will take long time in its final hearing.

There is no probability of their absconding or tampering with the prosecution evidence. The accused/ applicants ready to furnish bail as per the order, abiding with all conditions imposed by the Court. On these grounds, learned counsel for the applicants prays for grant of bail to the applicants.

Per-contra, learned Panel Lawyer opposes the bail application.

After hearing arguments of the parties and looking to the circumstances of the case and the facts that during medical treatment of deceased her dying declaration was recorded by the doctor in which she did not alleged anything against the petitioners-accused and also about the demand of dowry and cruelty by them, she deposed in her dying declaration that she burnt accidentally, petitioners are in jail since 30.08.2020, charge-sheet has been filed, petitioners are father-in-law and mother-in-law of the deceased, it is the time of COVID-19, therefore, further proceedings before the trial Court is withheld and conclusion of trial will take time for final disposal, there is no probability of their absconding or tampering with the prosecution evidence, it would be appropriate to release the applicants on bail, therefore without commenting on merits of the case, application of the applicants under Section 439 of the Cr.P.C. seems to be acceptable. Consequently, it is hereby **allowed**.

It is directed that **applicants-Kallu Ahirwar and Smt. Gendabai** be released on bail on their furnishing bail bond in the sum of **Rs.50,000/-(Rupees Fifty Thousand) each** with one surety of the same amount each to the satisfaction of the JMFC concerned or trial Court for their appearance before the trial Court on the dates given by the concerned Court. It is directed that the applicants shall comply with the provisions of Section 437(3) of the Cr.P.C. In view of the outbreak of 'Corona Virus disease (COVID-19)' the applicants shall also comply the rules and norms of social distancing.

Further, in view of the order passed by the Hon'ble Supreme Court in suo moto W.P.No.1/2020, it would be appropriate to issue the following direction to the jail authority :-

1. *The Jail Authority shall ensure the medical examination of the applicants by the jail doctor before their release.*

2. *The applicants shall not be released if they are suffering from 'Corona Virus disease'. For this purpose appropriate tests will be carried out.*

3 . *If it is found that the applicants are suffering from 'Corona Virus disease', necessary steps will be taken by the concerned authority by placing them in appropriate quarantine facility.*

M.Cr.C. stands disposed of.

Certified copy as per rules.

**(RAJENDRA KUMAR SRIVASTAVA)**  
**JUDGE**

A.Praj.

