

(2021) 08 MP CK 0105

In the Madhya Pradesh High Court

Case No : Miscellaneous Criminal Case No.40422 Of 2021

Kherunisha W/O Bashir Ahmad Musalman

APPELLANT

Vs

State Of M.P?

RESPONDENT

Date of Decision : 16-08-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 201, 306, 498A
Code Of Criminal Procedure, 1973 — Section 174, 437(3)

Citation : (2021) 08 MP CK 0105

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : P.K.Lalwani, Mukesh Sharma

Final Decision : Allowed

Judgement

Vivek Rusia, J

This is first application filed under section 439 Cr.P.C seeking bail in connection with crime No.337/2021 registered at police station Neemuch, district

Neemuch for the offence punishable under sections 498A, 306, 201 & 34 of the IPC.

As per prosecution story, Dr.Rajesh Dhakad, district hospital, Neemuch gave an information in writing to the police station Neemuch that the dead

body of Shamabi, w/o Rashid Khan was brought in the hospital on 03.07.2021 at 10.15 A.M. On the basis of the said information Marg No.25/2021

was registered under section 174 Cr.P.C and the matter was taken up for investigation. The police recovered the dead body and sent for postmortem.

Thereafter, the police recorded the statement of the parents of the deceased. They stated that the marriage of the deceased took place eleven years

ago with Rashid Khan and out of the said wedlock they have two children aged 7

years and 2 years respectively. The deceased was subjected to cruelty by her husband and his relatives, therefore, she committed suicide. Accordingly, police registered a case for the offence punishable under sections 498A, 306, 201 & 34 of the IPC.

Learned counsel for the applicant submits that the applicant is the mother-in-law of the deceased aged 65 years of age. The further custody of the applicant is no more required in the matter as she was sent to judicial custody. The allegation of atrocity against the deceased is omnibus in nature.

There was no previous complaint against the in-laws during the 11 years of her marriage. The applicant was living separately with the deceased and her husband. There was no interaction and interference in their day to day life. She is in custody since 05.07.2021. The investigation is over and charge sheet has been filed, hence prays for release of the applicant on bail.

Learned Panel Advocate opposes the bail application by submitting that the applicant and her family members tried to conceal the evidence regarding the cause of death, therefore, the offence punishable under section 201 IPC was also added.

Considering the facts and circumstances of the case, period of custody, age of the applicant and the fact that the allegations are omnibus in nature, without commenting on the merits of the case, the application is allowed. The applicant is directed to be released on bail on her furnishing a personal bond in the sum of Rs.40,000/- (Rupees Forty Thousand) with one solvent surety of the like amount to the satisfaction of the trial Court for her regular appearance before the trial Court during trial with a condition that she shall remain present before the Court concerned during trial and shall also abide by the conditions enumerated under section 437(3) Cr.P.C.

Before releasing the applicant from the custody the jail authorities are directed to medically examine her in order to rule out the possibility of COVID-

19 infections and shall comply with the direction given by the Hon'ble Apex Court in Writ Petition No. 1/2020.

C.c as per rules.