

(2002) 09 CHH CK 0006
In the Chhattisgarh High Court
Case No : Misc. Cr. Case No. 874 of 2002

Smt. Chandrakanta Shrivastava

APPELLANT

Vs

State of Chhattisgarh and Others

RESPONDENT

Date of Decision : 06-09-2002

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438
Penal Code, 1860 (IPC) — Section 307, 34

Citation : (2002) 4 CGLJ 302 : (2003) 1 MPHT 94

Hon'ble Judges : Fakhruddin, J

Bench : Division Bench

Advocate : P.R. Bhave and Hamida Siddiqui and Satish Gupta, for the Appellant;
Ranbir Singh and Sharmila Singhai, Govt. Advs., for the Respondent

Judgement

Fakhruddin, J. 1. Heard.

2. Anticipating arrest in connection with Crime No, 2/2002 registered at Police Station, Chakradarnagar, Tehsil and District Raigarh, for the offence punishable u/s 307 read with Section 34, IPC, the petitioner has filed this petition u/s 438, Cr.PC.

3. The prosecution story, in short, is that the appellant is mother-in-law of the victim and the allegation is that the applicant has poured Kerosene oil on the body of victim and set her fire in order to get rid of the victim. The victim sustained burn injuries to the extent of 60% and she was admitted to the hospital. However, the victim is survived and was discharged from Hospital after treatment. She has stated in her case diary statement that it is the applicant who set her fire. The complainant present in the Court showed her face, which shows extent of burn. It is shocking to note that the burn injuries are horrible and it is difficult to see the complainant.

4. Shri P.R. Bhave, Senior Advocate appearing on behalf of the applicant seeing the condition of the complainant stated that so far as anticipatory bail is

concerned, in view of the decision in *Salauddin Abdulsamad Shaikh Vs. State of Maharashtra*, , and *Vinod Kumar v. State of M.P.*, 1998(II) LLJ 689, and looking to the age of the applicant which is about 60 years, some protective order be granted. In *Salauddin's* case (*supra*) it is held that "when the Court of Session or the High Court is granting anticipatory bail, it is granted at a stage when the investigation is incomplete and, therefore, it is not informed about the nature of evidence against the alleged offender. It is, therefore, necessary that such anticipatory bail orders should be of a limited duration only and ordinarily on the expiry of that duration or extended duration, the Court granting anticipatory bail should leave it to the regular Court to deal with the matter on an appreciation of evidence placed before it after the investigation has made progress or the charge-sheet is submitted".

5. Shri Ranbir Singh, learned Govt. Advocate as well as Shri Satish Gupta, learned Counsel for the complainant on the other hand vehemently opposed the prayer made by the Counsel for the applicant and contended that the manner in which the complainant, who is a young girl has been dealt with the burn impact on the face itself disentitles the applicant from protective order as well.

6. It is true that the applicant is aged about 60 years and she is mother-in-law, but mother-in-law has to be always aged while comparing to be with daughter-in-law.

7. Having considered the facts and circumstances of the case, material on record and the manner in which the burn injuries caused on the person of victim, in the opinion of this Court it is not a case for grant of anticipatory bail. The application fails and is rejected.

8. Though this Court has held that the applicant is not entitled for anticipatory bail and protective order, however the ends of justice will be served if a direction is given that in the event of applicant's surrendering and applying for regular bail the Court concerned hearing the application shall decide the same on its own merits in accordance with law expeditiously. The complainant shall also be issued notice and if represented or appears will be heard by the Court concerned, as the prayer to that effect has been made by the Counsel appearing for the complainant.

9. Learned Counsel for the complainant prays that the burn injuries are horrible and it is difficult to see the complainant. He submits that the State should come forward to get the plastic surgery done. So far as this aspect is concerned the matter may be considered by the State.

10. Certified copy as per rules.

11. Copy to the State Counsel.