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**(2020) 12 MP CK 0116**

**Madhya Pradesh High Court (Indore Bench)**

**Case No:** Miscellaneous Criminal Case No.48261 Of 2020

Bhuribai

APPELLANT

Vs

State Of MP

RESPONDENT

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**Date of Decision:** Dec. 11, 2020

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 34, 201, 302

**Hon'ble Judges:** Shailendra Shukla, J

**Bench:** Single Bench

**Advocate:** Manoj Saxena, Tarun Pagare

**Final Decision:** Dismissed

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**Judgement**

Shailendra Shukla, J

This is first application under Section 439 of Cr.P.C. for grant of bail. Applicant " Bhuribai W/o Siyaram is implicated in Crime No.173/2020

registered at Police Station " Chhapiheda, District Rajgarh for the offence punishable under Sections 302/34 and 201 of IPC and she is in custody since 30.07.2020.

The allegation against the applicant is that she was involved in committing murder of her husband Siyaram along with her father-in-law Devnarayan and another co-accused Mangilal.

The prosecution story was that on 29.07.2020 in the evening, a Dehati Nalishi was registered to the effect by the complainant Rambabu, Chowkidar of

Village Dhuakhedi that dead-body of the deceased Siyaram is lying in front of the house of one Rambaksh. The investigation ensued and it was found

that deceased Siyaram had been living with another woman namely, Pavitrabai and that deceased had come to his house 2-3 days earlier and was

demanding partition of the agricultural land and Rs.5,000/- from his father Devnarayan. Thereafter, Devnarayan called over his another son-in-law

Mangilal and then all of them i.e. Devnarayan, Mangilal and Bhuribai forcibly made Siyaram consume pesticide, resulting in his death.

Learned counsel for the applicant has submitted that another co-accused namely, Mangilal has been granted bail by this Court vide order dated

26.11.2020 passed in MCRC No.44292/2020. He further submits that there is no evidence available against the present applicant and on the ground of

parity, she be also enlarged on bail.

Learned Public Prosecutor for the State was also heard who has opposed the application submitting that on the basis of memorandum of present

applicant, a mobile of deceased has been recovered from her possession. He also submits that from co-accused Devnarayan, who is father of the

deceased, pesticide has been recovered and further that on the basis of memorandum of Devnarayan, shoes of the deceased has been recovered. He

further submits that case of the present applicant is different from that of co-accused Mangilal because recovery has been made from the present

applicant.

Considered.

Case diary sent through e-mail was perused. In the memorandum of accused Devnarayan and Bhuribai, it was mentioned that when the deceased

started quarrelling, then these two accused persons along with co-accused Mangilal caught hold of the deceased, his hands and legs were tied down

and he was thrown to the ground and Bhuribai caught hold of the legs of her husband, Mangilal sat over Siyaram and Devnarayan opened mouth of

Siyaram and poured the pesticide in the mouth. From co-accused Devnarayan, a rope has been recovered, which was used in tying up the hands of

the deceased and a pesticide bottle of 500 ml. still containing about 200 ml. of pesticide was also recovered. From the same co-accused Devnarayan,

his bundy and dhoti have been recovered which were smelling of pesticide. From the present applicant, a mobile of the deceased has been recovered

although there was no SIM card in the same. There is strong evidence available against co-accused Devnarayan and present applicant Bhuribai used to reside in the same house and a mobile of her husband (deceased) has been recovered from her. Thus, the onus felt upon Bhuribai to explain as to what happened to her husband Siyaram when there is such strong evidence available against co-accused Devnarayan. There was motive also available with Bhuribai because deceased Siyaram had started living with another woman.

On due consideration of the aforesaid, no case is made out for grant of regular bail to the applicant. The application filed under Section 439 of Cr.P.C. stands dismissed accordingly.