

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5994 of 2015

- Arjun S/o Vakil Panika, Aged About 32 Years, R/o Village Mathpur, Police Station Kukdur, Tahsil Pandariya, Police Station & Post Pandariya, Civil & Revenue District Kabirdham Chhattisgarh

---- Petitioner

Versus

- State of Chhattisgarh through Police Station Kukdur, District Kabirdham Chhattisgarh

--- Respondent

For the applicant	:	Mr. Manoj Paranjpe, Advocate
For the Respondent	:	Mr. Anupam Dubey, Dy.Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

26 .11.2015

1. This is an application filed under section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant in connection with Crime No. 52/2015 registered at Police station Kukdur, District Kabirdham, Chhattisgarh for the offences punishable under sections 302, 201 read with Section 34 of IPC.
2. As per the prosecution case, the deceased was found hanging and further on conducting postmortem, it was reported that the death was due to asphyxia and was homicidal in nature. Subsequently wife of deceased Gorelal namely Sushila, present applicant Arjun brother-in-law and Dujia Bai mother of deceased were apprehended on the basis of the confession made by one of the co-accused Sushila.
3. Learned counsel for the applicant submits that no direct evidence is available against the applicant so as to connect the applicant with the crime and the entire case is based on the confessional statement of co-accused Sushila. He further submits that the alleged extra judicial confessions made by Sundar and Janak also do not inculcate this applicant as the said statements would not be applicable as it

was made in the presence of police by one of the co-accused. He, therefore, submits that in absence of any corroborative evidence, the applicant has been inculpated only on the basis of presumption. He prays for releasing the applicant on bail.

4. Per contra, learned State Counsel opposes the prayer for grant of bail. He submits that on the statements of Sundar and Janak, the confessional statement was made by Sushila, one of the co-accused, wife of deceased, therefore, the applicant may not be enlarged on bail.
5. A perusal of the charge sheet would go to show that direct evidence has not been produced by the prosecution and the entire prosecution case is based on the statement of one of co-accused Sushila. As per the law laid down in case of *Jayendra Saraswathi Swamigal Vs. State of Tamil Nadu reported in 2005 AIR SCW 323*, the confessional statement in absence of any corroborative evidence would not be admissible in evidence. Therefore, considering the evidence available in this case at this stage, without any observation on merits of the case for the purpose of bail, I am inclined to allow the bail application.
6. Accordingly the application is allowed and the applicant is directed to be released on bail on his furnishing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He shall appear before the said Court on each and every date to be give by the said Court.
7. Cc as per rules.

Sd/-
GOUTAM BHADURI
JUDGE