

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5883 of 2016

Mohd Altaf, S/o. Mohd. Naseer, Aged About 22 Years, R/o. Village Kusmi, Police Station Kusmi, District Balrampur , Ramanujganj (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police of Police Station Kusmi, District Balrampur Ramanujganj (C.G.)

---- Respondent

For Applicant :- Mr. Kishore Narayan, Advocate

For Respondent/ State :- Mr. Anil S Pandey, Govt Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/09/2016

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 25/2015 registered at Police Station- Kusmi, District Balrampur, Ramanujganj (C.G.) for the offence punishable under Sections 302,201/34 of Indian Penal Code.
2. The first bail application of the applicant was dismissed on merit on 14.01.2016 in M.Cr.C. No. 7615 of 2015.
3. As per the prosecution case on 29.03.2015 deceased Lalchand Kusmi while was watching Orchestra had altercation with the applicant and other co-accused. Thereafter, while the deceased

was returning he was intercepted by the applicant and other co-accused and he was strangulated and after causing murder dead body was packed in a bag and was thrown in Tarbandh Puliya.

4. Counsel for the applicant submits that all the witnesses have been examined and they have not deposed anything against the applicant, that is the change of circumstances, therefore, the applicant may be enlarged on bail.
5. Per contra, learned State counsel opposes the prayer for grant of bail.
6. Taking into the submission made that all the witness have been examined it would not be appropriate for this Court to go into for the trial and give the findings on merit. It is for the trial Court to adjudicate the entire evidence on its own merits. This Court while exercising jurisdiction can not usurp the power of trial Court since it has been stated that all the witnesses have been examined, I do not find any change of circumstances to entertain the bail petition, therefore, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under section 439 of Cr.P.C. is dismissed.

Sd/-

(Goutam Bhaduri)
Judge