

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 431 of 2017

- Kaushal Choudhary @ Munu s/o. Maohar Lal Choudhary, aged about 38 years, r/o. Village Bayang, PS Kotrroad, District Raigarh (CG).

---- Applicant

Versus

- State of Chhattisgarh Through : SHO, PS Kotraroad, District Raigarh (CG).

---- Respondent

For Applicant : Ms. Preetha Ghoshal, Advocate
For Respondent/State : Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

01-02-2017

1. This is first bail application filed under Section 439 of the Cr.P.C., for grant of regular bail to the applicant who has been arrested on 4-4-2016 in connection with Crime No. 56 of 2016 registered at Police Station Kotraroad, District Raigarh (CG), for the offence punishable under Section 302 and 201 of the IPC.
2. Case of the prosecution, in brief, is that on 1-3-2015 de-composed dead body was recovered from Mand river and after DNA test it was found to be of Narmada Sidar and on that basis first information report was registered on 6-3-2015 against unknown person. It is alleged that present applicnat was having affair with deceased who was already married. Consequently, some dispute took place between the deceased and her brother and she left her house on 15-6--2014 and thereafter her dead body was recovered. Other co-accused persons Nand Kumar and Sohitalal were arrsted and on their memorandum statements, certain pieces of broken bangles were recovered.

3. Learned counsel appearing for the applicant would submit that there is no evidence against the applicant and only on the circumstantial evidence that the applicant had affair with the deceased, he has been inculpated. It is further submitted that out of total 43 witnesss only 17 witnesses have been examined, charge-sheet has been filed, the applicant is in jail since 4-4-2016 and no further investigation is necessary, therefore, he may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail application.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the statement of Raj Kuamr Sidar, brother of the deceased wherein it is stated that deceased took mobile number 9165628830 to make a call and call details would show that the last call was made to the present applicant by the deceased from the said mobile at 0.13 hours. Perused the statements of other co-accused wherein allegations are attrinbuted to the present applicant and pieces of broken bangles were recovered.
7. Taking into consideration all the facts and circumstances of the case, nature of allegations and degree of offence and furthering considering the fact that out of total 43 witnesses, only 17 witnesses have been examined and rest of the witnesses are still to be examined and the incident is of the year 2015, therefore, at this stage, I do not find any reason to adjudicate the matter for consideration of bail by evaluating the statements of few witnesses as it would amount to usurping the power of trial Court. In view of this I am not inclined to allow this bail application.

8. Accordingly, the application filed under Section 439 of the Cr.P.C., is liable to be and is hereby dismissed.

Sd/-

(GOUTAM BHADURI)

Judge

Raju