

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 677 of 2017

- Smt. Madhuri W/o Ashok Aged About 35 Years Caste- Panika, R/o Village- Pasauri, Kelhari, Tehsil- Manendragarh District Koriya, Chhattishgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through Police Station- Kelhari, District Koriya, Chhattisgarh.

---- Respondent

For Applicant : Mr. Pushkar Sinha, Advocate

For Respondent/State : Mr. Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

15-03-2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 13-1-2016 in connection with Crime No. 2 of 2016, registered at Police Station Kelhari, District Koriya (CG) for the offence punishable under Sections 302, 201, 120-B of the IPC.
2. As per prosecution case, on 2-11-2015 a report was made by the complainant Nand Kumar, father of the deceased that the dead body of his son namely Mukesh Kumar was found in the Dam and the incident alleged occurred in between the period 29-10-2015 and 2-11-2015. It is the case of the prosecution that present applicant along with other co-accused Ramlal committed murder of Mukesh Kumar by screw driver on his neck and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that prosecution case is based on extra judicial confession of other co-accused Ramlal. Nand Kumar has been examined in this case and he has not supported the prosecution case, therefore, no case is made out. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 13-1-2016 and no further investigation is required, therefore, she may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the statement of Nand Kumar before whom extra judicial confession was made which is supported by merged statement which shows that dead body of Mukesh Kumar was found in the Dam.
7. Considering all the facts and circumstances of the case, it is not proper for this Court to evaluate the evidence by picking up the statement of only one witness 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 bail application filed under Section 439 of the Cr.P.C., is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju