

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 759 of 2017

- Jai Singh Bariha S/o Mangal Ram Bariha, Aged About 37 Years
R/o Village Saraipali, Chowki Giroudpuri, Police Station Gidhouri,
District Balodabazar Bhatapara Chhattisgarh

---- **Petitioner**

Versus

- State of Chhattisgarh Through Station House Office, Police Station
Gidhouri, District Balodabazar Bhatapara Chhattisgarh

---- **Respondent**

For Applicant : Mr. Raghavendra Pradhan, Advocate

For Respondent/State : Mr. Avinash K. Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

15-02-2017

1. This is the 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 31-7-2016 in connection with Crime No. 120 of 2016, registered at Police Station Gidhouri, District Balodabazar-Bhatapara (CG) for the offence punishable under Section 302 & 201/34 of the IPC.
2. Case of the prosecution, in brief, is that on 23-7-2016 the applicant along with other co-accused including deceased Malik Ram went to forest and laid the live electric wire in the forest to kill the animals. However, the deceased came in contact with the live electric wire and thereafter he died. Subsequently the applicant along with other co-accused persons in order to cause disappearance of evidence, threw away the body of the deceased into a canal after tying the

body with heavy boulders and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that the applicant has been falsely implicated in the case, the case cannot be attributed that of murder and as per prosecution case, the applicant has not caused murder of deceased. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 31-7-2016 and no further investigation is required, therefore, he may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail and would submit that it is defence which is to be considered during the course of evidence. At this stage, the allegation of Section 302 of the IPC is attributed, therefore, taking into evidence that the deceased was in the company of the applicant and subsequently he died, the applicant may not be released on bail.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Taking into consideration the facts and circumstances of the case, and further considering the the fact that deceased Malik Ram died while he was in the company of the applicant and subsequently his dead body was found in canal, I am not inclined to release the applicant on bail.
7. 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

