

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4120 of 2017

Kasim Khan S/o Kadir Khan, Aged About 19 Years (Wrongly Mentioned In Bail Rejection Order As Kashim Khan) R/o Village Bawankera, Police Station Patewa, Tahsil, Civil & Revenue District Mahasamund, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Patewa, Civil & Revenue District Mahasamund, Chhattisgarh.

---- Respondent

Shri Adil Minhaj, counsel for the applicant/s.
Shri Satish Gupta, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/11/2017

Heard.

The applicant has been arrested in connection with Crime No.172/2016 registered at Police Station – Patewa, District – Mahasamund (CG) for alleged commission of offence under Section 302 of IPC.

2. Case of the prosecution is that the applicant committed murder of the deceased - Shammi.

3. Learned counsel for the applicant submits that investigation is complete, charge sheet has been filed and there is no legally admissible evidence in the charge sheet which may lead to the conclusion that the applicant has committed murder. The two case diary statements, one of Samir and the other of Vicky, the brother and sister of the deceased, even if taken as it is, do not constitute the evidence of last seen. According to him, in the absence of any evidence of last seen or any circumstantial evidence of the case, the clothes of the applicant having not been found to be stained with human blood and in the merger intimation lodged by the father of the deceased on the date of death of the deceased, applicant not named, the applicant may be granted bail.

4. State counsel opposes prayer for grant of bail and submits that looking to the nature and gravity of allegations and that according to the statement under Section 161 CrPC of Samir and Vicky, when they were returning from the Mosque, the applicant was seen on the road passing a signal to the deceased Shammi and later on, Shammi was found murdered by hitting stone on her head, therefore, *prima facie* case is made out.

5. Having considered the submission of learned counsel for the parties and the submission of learned counsel for the applicant that even if the statement of Samir and Vicky are taken as it is, they do not constitute an evidence of last seen and that except this, there is no other incriminating evidence contained in the charge sheet against the applicant to connect him with the alleged commission of offence, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- along with one local surety for the like amount to the satisfaction of the Trial Court. He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge