

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6021 of 2017

- Shambhu Nishad S/o Nanharu Nishad, Aged About 58 Years R/o Village Pausaree (Bhaisa), Police Station Simga, Baloda Bazar, Bhatapara, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Simga, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Janak Ram Verma, Advocate.
For Respondent/State	:	Mr. UKS Chandel, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

07/11/2017

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 in connection with Crime No. 53/2017, registered at Police Station- Simga, District – Baloda Bazar-Bhatapara(C.G.) for the offence punishable under Sections 302 & 201 of the Indian Penal Code (for short 'IPC').
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. The case has been investigated and charge-sheet has been filed. As per the prosecution case, no case is made out against the applicant. One memorandum

statement was recorded on 17.2.2017, after the recovery of the dead body. No seizure has been made on the basis of this memorandum. Further, there is no other circumstantial evidence against the applicant and there is no eyewitness of this instance, hence, for these reasons, applicant be enlarged on bail.

3. Learned State counsel opposes the prayer for grant of bail, however, he would submit that the case of prosecution is based on the circumstantial evidence of extra-judicial confession and last seen together. Statements of witnesses has been recorded in the investigation on this aspect, hence, applicant is not entitled for grant of bail.
4. As per the case of prosecution, the incident took place on the intervening night of 15 and 16 February, 2017 the dead body of the deceased Govind Nishad was found on 16.2.2017. On the basis of which morgue intimation was recorded and thereafter FIR has been lodged and charge-sheet has been filed against the applicant, after completion of investigation.
5. On prayed made by counsel for applicant that liberty be granted to file repeat bail application after recorded the statement of the main witnesses in this case.
6. Heard both the parties and perused the case diary.
7. Considering the submissions made in this respect and the contents of case diary and looking to the nature and the allegation levelled against the applicant and evidence produced to be before the trial Court by the prosecution side in the case against the applicant, I am of this view that this is not a fit case where the applicant should be enlarged on bail.

8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha