

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7511 of 2017**

- Narendra Kumar Rathiya S/o Mohan Singh Rathiya Aged About 22 Years Caste Kanwar R/o Village Nondarha, Police Station Kartala Tahsil Kartala District Korba Chhattisgarh. ---- **Applicant**

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Kartala District Korba Chhattisgarh. ----**Non-applicant**

For Applicant : Shri Vimlesh Bajpai, Advocate
 For Non-applicant/ State: Shri UNS Deo, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****15.12.2017**

1. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with Crime No. 62 of 2017 registered at Police Station Kartala, district Korba (C.G.) for the offences punishable under Sections 302 and 201 of the Indian Penal Code and also heard the learned counsel for the parties.
3. Case of the prosecution, in brief, is that due to agricultural dispute, applicant, co-accused Din Dayal Rathia and Anita Rathia, in the intervening night of 8 - 9 August, 2017 in village Chorbhatti, throttled the neck of the deceased Mohitram. Ultimately, the deceased succumbed. They buried the dead body of the deceased in a pit near Davan Nala.
4. FIR was lodged making the suspicion on Amrit Rathia and Din Dayal

Rathia. All other statements of the material witnesses recorded under Section 161 of the Cr.P.C., same fact has been mentioned.

5. There is no memorandum of the applicant nor any seizure has been affected at his instance. In the memorandum of the co-accused Din Dayal Rathia and Anita Rathia, the name of the applicant has been mentioned as culprit.
6. Learned counsel for the applicant submits that he is innocent and has been falsely implicated in the case. He further submits that charge-sheet has already been filed against the applicant and he is in custody since 10.08.2017, hence, he shall be released on bail.
7. On the other hand, the learned counsel for the State opposes the bail application.
8. Looking to the facts and circumstances of the case, evidence which is available against the applicant, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the applicant.
9. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed. It is directed that if the applicant furnishes two solvent sureties for a sum of Rs.15,000/- each along with a personal bond in the like sum (Rs.30,000/-) to the satisfaction of the Court concerned with the condition that he will appear before that Court as and when directed by the said Court, he be released on bail.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge