

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 809 of 2017**

Sagunath Khairwar, S/o. Rambechan Singh, Aged About 37 Years, R/o. Village Karauti, Police Station Chandni, Tehsil- Odgi, District- Surajpur, Chhattisgarh.

**---- Applicant**

**Versus**

State Of Chhattisgarh, Through- Station House Officer, Chandni, District- Surajpur, Chhattisgarh.

**---- Respondent**

-----  
For Applicant : Mr. Sushil Dubey, Advocate

For Respondent : Mr. Neeraj Jain, Govt. Advocate.  
-----

**Hon'ble Shri Justice Goutam Bhaduri**

**Order on Board**

**27/02/2017**

1. This is the second 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.23/2016 registered at Police Station- Chandni, District Surajpur (C.G.) for the offence punishable under Sections 302, 201, 34 of Indian Penal Code.
2. As per the prosecution case, in between the intervening night of 6/7.06.2016 the applicant has committed murder of Adalat Khairwar by the Axe as he was having illicit relation with the wife of the applicant.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated, the earlier bail application was rejected on 06.10.2016 on the statement of Ramnath Khairwar wherein it is stated that extra judicial confession was made before him and now the said witness Ramnath Khairwar has been

examined and he has not supported the case of the prosecution, therefore, no evidence is available against the present applicant and as such he may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the statement of Jagmohan who was the witness to the memorandum and the seizure. After examination, he was declared hostile and thereafter certain cross-examination was made. Taking into the cross-examination of the memorandum witness Jagmohan, it is not a case where the entire evaluation of the statement can be made at this stage to hold the innocence of the applicant, it is for the Trial Court to adjudicate the same after entire evidence is evaluated. Considering the statement of the memorandum witness and the seizure, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-  
**(Goutam Bhaduri)**  
Judge