

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3373 of 2017

Rajkumar Mandle, S/o. Bodhan Mandle, aged about 30 years, R/o. Village-Khamhariya, Out Post – Chandanu, Police Station – Nandghat, District – Bemetara (C.G.)

----Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station-Nandghat, District – Bemetara (C.G.)

---- Respondent

For Applicant : Mr. Samir Singh, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09/05/2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.16/2016, registered at Police Station – Nandghat, District – Bemetara (C.G.) for the offence punishable under Section 302 of I.P.C.. The first bail application was dismissed on merits vide order dated 14.09.2016 in M.Cr.C. No.5349/2016.
2. As per prosecution case, on 05.01.2016, the applicant committed murder of his mother Kera Bai. It is alleged that the applicant caused burns to her by forcibly putting down her head into a pan while the vegetables were boiling and thereby she sustained burn injuries and the joint of her right shoulder was dislocated. She was admitted in hospital and during the course of treatment, her dying declaration was recorded, wherein categorical statement was made against the

applicant.

3. Learned counsel for the applicant would submit that 7 prosecution witnesses have been examined and they have not supported the case of the prosecution. Therefore, the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard the learned counsel for the parties.
6. Perused the statement of prosecution witnesses. After reading the statement of the prosecution witnesses, prima-facie I do not find it proper to evaluate their statement as out of 20 witnesses, only 7 witnesses have been examined, therefore, by picking up the few of the statements, it would not be proper for this Court to give a finding and at this stage appreciating the statement of the witnesses would amount to give a finding of trial while deciding the bail application by usurping the power of trial Court. Considering the same I do not find any change of circumstances to reconsider the bail application again.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge