

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3674 of 2017

- Gulab Das Vaishnav S/o Krishnadas Vaishnav, Aged About 42 Years Occupation Business, R/o Village Saraipali, Delari, Thana Punjipathara Gharghoda, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Gharghoda, District Raigarh, Chhattisgarh.

---- Respondent

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MCRC No. 3686 of 2017

- Shankardas Vaishnav S/o Kiritchandra, Aged About 32 Years Occupation Labour, R/o Gangam Pali, Tahsil And District Raigarh Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer Police Station Gharghoda Civil & Revenue District - Raigarh Chhattisgarh

---- Respondent

For Applicant in : Mr. Awadh Tripathi, Advocate.
MCRC No.3674 of 2017

For Applicant in : Mr. Manoj Kumar Jaiswal, Advocate.
MCRC No.3686 of 2017

For Respondent/State : Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23-6-2017

1. Since both the bail petitions arise out of same Crime No.202 of 2016 which are common in nature, they are heard analogously and are being disposed of by this common order.
2. These are second bail applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested on 26-7-2016 in connection with Crime No.

202 of 2016, registered at Police Station Gharghoda, District Raigarh (CG) for the offence punishable under Sections 302 and 201/34 of the IPC. Earlier first bail petitions were dismissed on merits on 28-9-2016 and 28-11-2016.

3. The case of the prosecution, in brief, is that one dead body of lady was found near river on 22-7-2016. and on investigation it was found that lady was Shashi and was the second wife of Rupdhar. It is further case of the prosecution that since the deceased Shashi was insisting Rupdhar to stay along with her, it was opposed by the present applicants who were matrimonial uncle and brother-in-law of Rupdhar and all have strangled the deceased in order to eliminate and threw her dead body into river and thereby the aforesaid offence was committed.
4. Learned counsel appearing for the applicants would submit that earlier bail petitions were dismissed considering the memorandum statements of the witnesses. Now the memorandum witnesses have been examined and they have not supported the case of prosecution, therefore, no case is made out. It is further submitted that the applicants have been falsely implicated in this case and they are in jail since 26-7-2016 and no further investigation is necessary, therefore, they may be released on bail.
5. On the other hand, learned State counsel opposes the prayer for grant of bail.
6. I have heard learned counsel for the parties, perused the case diary and documents.

7. Perused the statements of memorandum witnesses Tulsi Behra and Kaandu Patnaik. They have not directly supported the case of prosecution, however, admitted the signatures. Their statements would further show that arrest was denied and the applicants extended threat to deceased before the incident.
8. Taking into consideration all the facts and circumstances of the case and further considering the statements of the memorandum witnesses, it would not be appropriate for this Court to give a finding while consideration of bail at this stage any finding may cause prejudice to the rights of defence or prosecution as this Court while deciding the bail application is not sitting as court of trial. In view of this I am not inclined to allow these bail application.
9. Accordingly, the instant bail applications filed under Section 439 of the Cr.P.C. are also liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju