

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 457 of 2018**

Yajendra Banjare, S/o. Pardeshi Ram Banjare, Aged About 46 Years, R/o. Village -Damari, Police Station -Khairagarh, Civil and Rev. District -Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Acting Through : Officer In Charge, Police Station-Khairagarh, Civil and Rev. District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant : Mr. Devesh G. Kela, Advocate

For State/respondent : Mr. Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**26/03/2018**

1. This is the first 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.342/2016, registered at Police Station – Khairagarh, District – Rajnandgaon (C.G.), for the offence punishable under Section 302, 201/34 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. Applicant is in jail since 09.10.2016. Co-accused in this case namely Vomesh Banjare

has been granted bail by the Coordinate Bench of this Court vide order dated 04.12.2017, passed in M.Cr.C. No.5292/2017 and the applicant has also a similar case. It is submitted that all the witnesses of extra judicial confession have been examined before the trial Court and all of them have been declared hostile and they have not supported the case of the prosecution. Therefore, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect and submits that no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, on the night of the incident, applicant along with co-accused arrived in drunken state and because of some dispute with the deceased Usha Banjare, the wife of this applicant both assaulted, throttled and gagged the deceased because of which, she died on the spot and thereafter disposed of the dead body in the manure pit of the adjacent village.
6. This is not a case of eye-witness. Secondly, the dead body of the deceased was not found in the same house and thirdly as submitted all the material witnesses in this case have turned hostile because of which, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram