

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2184 of 2018**

Harishchandra S/o Late Ramkishun Gond Aged About 21 Years R/o- Village Murma, Police Station Patna (Mahuwa Para), District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Station Patna, District- Korea, Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh.

---- Respondent

For the Applicant : Shri Anil Gulati, Advocate.
For the Respondent/State : Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.05.2018**

Heard.

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. 263 of 2017, registered at Police Station Patna, District Korea, Chhattisgarh for the offence punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant is in jail since 7.11.2017 and has been falsely implicated in this case. There is no evidence of the prosecution against the applicant that he has committed the murder of the deceased. The statements of the witnesses with regard to extra-judicial confession clearly show that the applicant made such admission in the presence of the police, hence, such evidence is not

admissible under the law. Hence, it is prayed that the applicant be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the presence of police by itself does not indicate that the applicant while making such statement was under the influence or any pressure of the police as there were numerous persons present on the spot when the applicant made such admission and the statement of extra-judicial confession by the witness has to be closely examined by the trial Court to find out whether it is legally admissible or not. Hence, no case is made out for grant of regular bail to the applicant.

4. Heard counsel for both the parties and perused the case diary.

5. The case of the prosecution is that on the date of incident because of some dispute this applicant assaulted deceased – Harilal with a stone on his chest and when he fell down, he picked him up and threw him in the well who died due to drowning and at the same time, the applicant also fell down alongwith the deceased. Hence, this case.

6. The applicant himself was the person who gave the merg intimation and on the basis of the postmortem report, the FIR was registered in this case. Considered on the entire material present in the case-diary and the value of the extra-judicial confession statement of the applicant shall be determined by the trial Court. For the present, I am of this view that it is not possible to analyze and give a finding about the truthfulness of the statement

of any witness. Hence, for these reasons, this application is rejected.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi