

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2652 of 2018

- Dinesh Shrivastava @ Pinki S/o Late Shri Shanti Swaroop Shrivastava Aged About 44 Years R/o Bhore Colony, Ashok Nagar, District- Ashok Nagar (M.P.) Presently R/o- Block No.-1 Flat No. 5, Indrawati Colony, P.S. Civil Lines, Raipur, Tahsil And District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer, Police Station Kumhari, District- Durg, Chhattisgarh, District : Durg, Chhattisgarh

---- Respondent

For Applicant	:	Mr. B.D. Guru, Advocate.
For Respondent	:	Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

27/06/2018

1. This is second bail application filed on behalf of the applicant. Earlier bail application of this applicant bearing MCrC No.7598/17 has been dismissed as withdrawn vide order dated 2.2.2018 with liberty to revive the same after some time.
2. This bail application has been 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.106/2008, registered at Police Station Kumhari, District-Durg, (C.G.) for the offence punishable under Sections 302, 201 & 120-B r/w Section 34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Applicant is in jail since 24.11.2016. The trial against this applicant has made progress in which main witnesses, who have been examined before the trial Court, have not supported the case of prosecution. Certified copies of the depositions of all the witnesses examined have been produced for perusal of this Court. The trial against this applicant is getting delayed, hence, it is prayed that he may be released on regular bail.
4. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that out of 41 witnesses, only 14 witnesses have been examined till date before the trial Court and therefore, at this stage, it cannot be said that the case has tilted in favour of this applicant. Delay in trial of such cases is unavoidable. Apart from this, the charge against this applicant is also very heinous in nature. Hence, no case is made out for grant of regular bail.
5. Heard both the parties and perused the case diary.
6. The case against this applicant is this, that he had some financial transaction with deceased Rajendra Nigam and because of which he hatched-up a conspiracy with co-accused persons to commit murder of the deceased and thereafter murdered the deceased by firing shot from a country made pistol in his head. The death of deceased was a case of murder but the colour was tried to be given as that of a suicide to conceal actual offence committed. After lodging of FIR during investigation, this applicant and others have admitted their guilt in their memorandum statements and their disclosure led to the recovery of some articles.

7. The case is totally based on circumstantial evidence, hence, at this stage, no opinion can be formed on the basis of the statements of witnesses recorded for the purpose of grant of regular bail to this applicant as that would certainly prejudice the trial. Hence, for these reasons, I am of this view that no case is made out for grant of regular bail.
8. Accordingly, this second bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge