

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7246 of 2017**

Gaurav, S/o. Narendra Bhatiya, Aged About 25 Years, Caste- Bhatiya, R/o. Village -Bortalab, Police Station -Bortalab, District -Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : District Magistrate, District -Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Pawan Kesharwani, Advocate
For State/respondent	: Mr. Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****13/03/2018**

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.15/2017, registered at Police Station – Bortalab, District - Rajnandgaon, for the offence punishable under Section 306, 328, 302, 120-B, 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 11.08.2017, no case is made out on the basis of the material present in the charge-sheet. The case is before trial Court and so far

all the witnesses that have been examined have been turned hostile without supporting the case of the prosecution. The only evidence is against this applicant is oral dying declaration made by the deceased before her mother Smt. Kena Bai and Sher Singh and both of them have also not supported the case of the prosecution in the statement given before the concerned trial Court. Therefore, the counsel prays that the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. The deceased Laxmi Bai Yadav was acquainted with co-accused Arjun Yadav and she had love affair with him. On the date of incident, the deceased was called telephonically by Arjun Yadav on the spot and she was taken by the co-accused Arjun Yadav and Monu to a place, where they mixed some kind of medicine in Pepsi bottle and told her to drink saying that rat poison has been mixed in the bottle of the cold drink. The deceased drank the cold drink allegedly containing the poison in it and she was brought to her own house by the main accused Arjun Yadav in indisposed condition from where she was taken for treatment, but she died during the course of treatment. The offence against this applicant is based on the statement made by the deceased Kena Bai, that the deceased told her when she was compelled to drink poisonous cold drink at that time, this applicant was also present and he also forced her to drink the poisoned cold drink.

6. Considered the submissions made and the contents of the case diary. Presently, the situation is this the main witnesses namely Kena Bai and Sher Singh have been examined by the trial Court and both of them have turned hostile and not supported the case of the prosecution, hence, looking to the development of things, 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 their 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