

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3726 of 2018**

Kailash Yadav S/o Rajkumar Yadav Aged About 26 Years R/o-
Village Nilkanthpur (Korgi), P.S. Ramchandrapur, District-
Balrampur-Ramanujganj, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police
Station, Ramchandrapur, District- Balrampur-Ramanujganj,
Chhattisgarh.

---- Respondent

For the Applicant	:	Shri CJK Rao, Advocate
For the State	:	Shri Dhiraj Wankhede, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**26/06/2018**

1. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No. 01/2018 registered at Police Station Ramchandrapur, District Balrampur-Ramanujganj (C.G.) for the offence punishable under Section 302 read with Section 34, 120B, 201 and 376(2)(a) of IPC and Section 3(2)(V) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act.
3. In brief, the prosecution story is that prosecutrix/deceased had love relation with accused Ramdas. The present applicant is the brother of the accused Ramdas. On 18/12/2017 prosecutrix/deceased near about 7.00 a.m. had alone gone to forest. Accused Ramdas chased her and committed sexual intercourse with her promising to

performing marriage. Thereafter accused Ramdas Yadav bring the deceased in his house. He intimated his brother applicant that he brought the prosecutrix in the house. Prosecutrix/deceased refused to left their house. Applicant and accused Ramdas killed prosecutrix/deceased and thrown her dead body in Upka Dam.

4. In the case in hand *prima facie* there is no direct evidence against the applicant. *Prima facie* there is neither any memorandum of the applicant nor any seizure from him. *Prima facie* there is no such statement of any prosecution witness, who had seen the applicant and prosecutrix/deceased together.
5. Complicity of the applicant is mentioned in memorandum of co-accused Ramdas Yadav which is *prima facie* not admissible in the evidence.
6. Learned counsel for the applicant submits that applicant is innocent and falsely implicated in the present case and the applicant is in custody since 03/01/2018, therefore, he shall be released on bail.
7. On the other hand, learned counsel for the State opposes the bail application.
8. Looking to the above mentioned facts and circumstances of the case, looking to this fact that there is no likelihood of the accused to abscond and tamper the evidence, charge-sheet has been filed and the trial will take its own time, applicant is in jail since 03/01/2018, this Court is inclined to give the benefit of Section 439 of the Cr.P.C. to the present applicant.
9. Consequently, the bail application filed under Section 439 of the Cr.P.C., is allowed.
10. It is directed that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond in the like sum to the

satisfaction of the concerned Court with the condition that he shall appear before the trial Court at 11.00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge

Kamde