

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3774 of 2018

Kesh Kumar Patel @ Chhotu, S/o Shri Laluram Patel, aged about 25 years, R/o Village Kondkera, P.S. Vishrampuri, District Kondagaon (CG).

---- Applicant

Versus

State of Chhattisgarh, through the Police Station Vishrampuri, District Kondagaon (CG).

---- Non-applicant

For Applicant : Mr. Pravin Kumar Tulsyan, Advocate.

For Non-applicant : Mr. Dhiraj Wankhede, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

06.07.2018

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with crime No.78/2017 registered at Police Station Vishrampuri, District Kondagaon for the offence punishable under Sections 302, 201 of the Indian Penal Code.
3. Case of the prosecution, in brief is that deceased Kanhaiya Thakur is the resident of village Kondkera. On 10.09.2017 he was returning back from the house of his sister Sunita Thakur to his home village Kondkera Slum at near about 8:40 pm, he was found sustaining injuries on his head as a result he was dead. During investigation, it was

found that quarrel was taken place between deceased Kanhaiya Thakur and the father of the accused applicant. On the basis of memorandum of applicant one Axe was seized from the possession of him. The axe was sent for medical examination in FSL where no blood stain was found and there is no statement of any eye-witness.

4. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case. The applicant is in jail since 13.09.2017, therefore, he shall be released on bail.

5. On the other hand, learned counsel for the State opposes the bail application.

6. Looking to these facts and circumstances of the case, looking to the circumstantial evidence, charge has been filed and further looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, the trial will take its own time, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.

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

8. It is directed that if the applicant furnishes one solvent surety for a sum of Rs.30,000/- along with a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that he will appear before the Trial Court at 11:00 am as and when directed till trial and he would co-operate during the trial, he shall be released on bail.

9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE