

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4635 of 2018**

Vijay Kenwat S/o Naresh Ram Kenwat Aged About 30 Years R/o- House No. 630, Vivekanand Nagar, Mopka, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The Station House Officer Police Station- Sarkanda, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Kishore Bhaduri and Shri Goutam Khetrapal, Advocates.
For the Respondent/State	:	Shri Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****25.07.2018**

Heard.

1. This is the third bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn and the second bail application was decided on merits by the Co-ordinate Bench of this Court in M.Cr.C. No. 2503 of 2017 on 4.5.2017. The applicant has been arrested in connection with Crime No. 124 of 2016, registered at Police Station Sarkanda, District Bilaspur, Chhattisgarh for the offence punishable under Sections 498-A, 323, 506 and 304B read with Section 34 of the Indian Penal Code. Since the Co-ordinate Bench has made an exception, this case has come up for hearing before this Court.

2. Learned counsel for the applicant submits that the applicant is in jail since 23.5.2016 and has been falsely implicated in this case. The trial against the applicant has not made any sufficient progress during the period of detention of the applicant i.e. more than two years and so far only 10 witnesses have been examined, out of 28 witnesses. It is also submitted that the main witness in this case Kanti Bai, the mother of the deceased has been examined and she has given a statement before the Court contrary to the statement under Section 161 of the Cr.P.C. Hence, looking to the delay in conclusion of the trial and also for the reason that all the co-accused persons are on bail, 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 applicant is the main accused in this case and there are allegations against him in dying declaration of the deceased. Apart from that, the earlier application has been dismissed on merits. Hence, the applicant is not entitled for grant of bail.

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

5. As the application under Section 439 of the Cr.P.C. has been decided on merits by the Co-ordinate Bench of this Court, there is no requirement for consideration on merits. The only consideration is the change in circumstance.

6. After passing of more than two years, so far only 10 witnesses have been examined in the trial against the applicant which shows that the trial is

getting prolonged indefinitely. Hence, I am of the considered opinion that the applicant deserves to be released on 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 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. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge