

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5232 of 2018**

Takesh Sahu, aged about 27 years, S/o Shri Prakash Sahu, R/o Village Chandi, P.S. Abhanpur, District (Revenue & Civil) Raipur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Abhanpur, District Raipur (CG).

---- Non-applicant

For Applicant : Mr. Yogesh C. Pandey, Advocate

For Non-applicant : Mr. Manish Nigam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**20.08.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the copy of charge-sheet provided by the counsel for the applicant in connection with Crime No.291/2017 registered in Police Station Abhanpur, District Raipur for the offence punishable under Sections 302, 34 of IPC.
3. Case of the prosecution, in brief, is that the name of the deceased is Mukesh Dheemer. There was an illicit relationship between the wife of the deceased and the present applicant. The applicant and wife of the deceased committed the murder of the deceased by throating his neck with the help of towel.
4. Counsel for the applicant would submit that the maximum prosecution witnesses have turned hostile including the witness of the alleged memorandum and seizure. He would further submit that the applicant has not committed any offence and has been falsely implicated in the case and as such the applicant may be released on bail.
5. On the other hand, counsel for the State would oppose the prayer

for grant of bail to the applicant and submit that on the basis of the memorandum statement of the applicant, one towel was seized from him, therefore, he is not entitled for bail.

6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
7. The memorandum under Section 27 of the Evidence Act of the applicant has been recorded and he had given information that one towel has been concealed in the barn. On such information one towel has been seized from his possession. As per counsel for the State, the alleged towel was sent to FSL and report is still awaited.
8. What would be effect of turning hostile of the prosecution witnesses may be considered at the time of final disposal of the case.
9. Looking to the facts and circumstances of the case, looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.
10. Consequently, the bail application is rejected.
11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-