

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

MCRC No. 5516 of 2018

Wahid Khan S/o Late Shri Anwr Khan Aged About 51 Years R/o Lalpur, Police Station
And Tehsil Bagbehra, District Mahasamund, Chhattisgarh, District : Mahasamund,
Chhattisgarh --- **Petitioner**

Versus

State of Chhattisgarh through Station House Officer, Police Station Bagbehra, District
Mahasamund, Chhattisgarh, District : Mahasamund, Chhattisgarh --- **Respondent**

24.08.2018	Mr. Ishan Verma, counsel for the Applicant. Mr. Dilman Rati Minj, Govt. Advocate, for the State. This is third bail application filed u/s 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.198/2017 registered at P.S. Bagbahra, Distt. Mahasamund (C.G) for the offence punishable under section 302 & 34 of IPC. As per the prosecution case on 06.09.2017 one Benidhar had gone to attend some meeting, subsequently he did not return and thereafter his dead body was found. On suspicion, the present applicant and other accused were arrested and having interrogated, they revealed that they have killed Benidhar by rod and knife in furtherance of common intention. Learned counsel for the applicant would submit that the seizure witness Shekhar Chandrakar and Raj Kumar Mahan who are witnesses for the memorandum and seizure have been examined before the court below and they have not supported the case of prosecution, therefore, it is a case of no evidence. Per contra, learned state Counsel opposes the bail application and submits that the seizure witness Shikhar Chandrakar has supported the recovery of knife.	

R a o	Perused the case diary and memorandum statements. As per the statement of P.W.1 Shikhar Chandrakar, the knife was recovered from the pond. Therefore, it cannot be stated that the entire prosecution case has failed. Only for the fact that the memorandum witness has not supported the memorandum, at this stage, no certificate of innocence can be given. It is for the trial Court to evaluate the entire facts and evidence as a whole including the statement of I.O. So I do not find any change of circumstances to reconsider the case for grant of bail at this stage. Accordingly, this application is dismissed. Sd/- GOUTAM BHADURI JUDGE
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