

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5652 of 2018**

- Budhratan Goswami S/o Subhash Goswami Aged About 22 Years R/o- Bhatapara Charama, Tahsil And Ps Charama, District- North Bastar, Kanker, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through- The SHO, Police Station Charama, District- North Bastar Kanker, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Sandeep Shrivastava, Advocate.

For Non-applicant : Shri Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****29.08.2018**

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. 79/2018 registered at Police Station – Charama, District – North Bastar Kanker (C.G.) for the offence punishable under Sections 460, 302, 34 of the Indian Penal Code.
3. Case of the prosecution, in brief is that deceased Smt. Babli Gajendra was resident of village Charama. In the intervening night of 20.04.2018 and 21.04.2018 applicant and juvenile coaccused killed the deceased by throttling her neck after entering in her house. The reason for killing deceased was that she had illicit relation with the father of the applicant.

4. The applicant is in custody since 22.04.2018.
5. 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, therefore, he shall be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant.
7. There is no direct evidence against the applicant. On the basis of the memorandum of applicant, pieces of broken beer bottle were seized. Prima facie there is no such evidence that such bottle was used in commission of crime. Applicant had admitted before the police in presence of some witnesses that he had killed the deceased. Prima facie such confession is not admissible in evidence.
8. Looking to the facts and circumstances of the case, 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 present applicant.
9. Accordingly, the present 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.50,000/- along with a personal bond of 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 cooperate during the trial, he shall be released on bail.
11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE