

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7072 of 2018

Sarwari Bano, D/o. Vakil Aahmad, Aged About 22 Years, R/o. Village Anirudhpur, Police Station Ramchandrapur, District Balrampur Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Ramchandrapur, District Balrampur, Chhattisgarh

---- Respondent

For Applicant : Mr. Akhil Mishra, Advocate

For Respondent : Mr. Aditya Sharma, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

12.10.2018

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.47/2016 registered at Police Station- Ramchandrapur, District Balrampur (C.G.) for the offence punishable under Sections 302, 201, 120-B, 34 of Indian Penal Code. The first bail application was dismissed on merit on 08.02.2017 in MCRC No.619/2017.
2. Case of the prosecution, in brief, is that a report was made by the complainant Raj Dev Thakur who is uncle of deceased namely Vinay Kumar that his Nephew's body was found on the peak of a hill and doubt was raised over Jai Kumar Singh and the present applicant Sarwari Bano. It was stated that since the deceased expressing his love for Sarwani Bano, therefore, she alongwith Jai Kumar Singh has eliminated the deceased Vinay Kumar.
3. Learned counsel for the applicant submits that in earlier occasion rejection was on the basis of the statement of Dinesh Kumar Prajapati and he has stated that the other co-accused has

confessed that the present applicant alongwith the other co-accused has committed the offence, which is not admissible. It is submitted that even if the statements are appreciated, the confession of co-accused cannot be made a ground for conviction of the other accused, therefore, the applicant being a lady, she may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the statement. After perusal of the statement of Dinesh Kumar Prajapati, PW-12, at this stage, since this Court is deciding the bail application, considering the nature of allegation, it would not be proper for this Court to evaluate the statement as it will amount to usurp the power of the trial Court in either way. Taking into totality of the facts and the nature of allegation, I do not find any change of circumstances to reconsider the instant second bail application.
6. Accordingly, the second bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge