

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 102 of 2019

- Shyamlal @ Lal Harijan S/o Balchand Harijan Aged About 32 Years Occupation Service (S.E.C.L Bhatgaon) R/o Village Baraundhi Patwaripara Police Station Bhatgaon District Surajpur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Bhatgaon District Surajpur Chhattisgarh.

---- Respondent

For Applicant : Shri Shakti Raj Sinha, Advocate.
For Respondent/State : Shri KK Dewangan, Dy. GA.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

02/04/2019

1. The Applicant has preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 56/2018, registered at Police Station – Bhatgaon, District- Surajpur (C.G.) for the offence punishable under Sections 294, 506 & 302 of the IPC.
2. First bail was rejected on merits vide order dated 02.07.2018 passed in MCRC No. 3933/2018.
3. As per prosecution story, on 14.04.2018, a report was lodged by one Parwati Devi W/o the deceased - Dashrath alleging therein that on 06.04.2018 at about 12 'o' clock, the applicant and other co-accused person came to her house and took the deceased with them. Thereafter, they returned at about 8 PM in drunken

condition, the applicant and the co-accused started quarrel which was interfered by the deceased, on which the applicant used filthy language and grabbed throat of deceased and threw him on ground on which deceased fell unconscious and thereafter he was hospitalized, during treatment he died on 05.06.2018, thereafter, FIR has been lodged and the Applicant is in custody since 27.04.2018.

4. Learned Counsel appearing on behalf of the Applicant submits that the Applicant is innocent and has been falsely implicated in the case. He further submits that FIR has been lodged after 8 days of the incident and delay in lodging the FIR was not properly explained by the prosecution. He further submits that vide order dated 02.07.2018 first bail application of the applicant dismissed on merits but after the dismissal of the said application wife of the deceased as well as son of the deceased namely Umesh and Deepak were examined before the Trial Court and they were not supported the case of the prosecution and turned hostile. Apart from the above eye-witnesses, there is no evidence available on record against the applicant. The Applicant is in custody since 27.04.2018 and trial is likely to take some time. Therefore, looking to the changed circumstances of the case, the applicant may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary with due care.
7. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that after the rejection of bail application on merits, all the eye-witnesses have examined before the Trial Court and none of

them have supported the case of the prosecution. The Applicant is in custody since 27.04.2018 and trial is likely to take some time, looking to the changed circumstances of the case, without further commenting on merits of the case, I am inclined to release the Applicant on bail.

8. Accordingly, the bail application is allowed.
9. It is directed that the Applicant shall be released on bail on executing a personal bond for a sum of Rs. 20,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge