

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 181 of 2019

- Baldau Ram Sahu S/o Seukram Sahu Aged About 32 Years R/o Village - Jhal, Police Station And Tahsil - Nawagarh, District - Bemetara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Officer, Police Station - Sakri, District - Bilaspur Chhattisgarh.

---- Respondent

For Applicant : Mr. Dharmesh Shrivastava, Advocate.
For Respondent/State : Mr. Devendra Pratap Singh, Dy. AG.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

25/02/2019

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 417/2018, registered at Police Station –Sakri, District Bilaspur- (C.G.) for the offence punishable under Section 302 of the IPC.
2. As per prosecution story, on 05.12.2018, the dead body of the deceased Birbal Yadav was found near the Sharab Bhatti, Sakri, Bilaspur (C.G.). Merg has been lodged by one Dwarika Prasad. During course of investigation, it was found that the deceased used to visit in the house of the applicant and made illicit relationship with his wife, thereafter, the applicant suspected them. On 04.12.2018, the applicant called the deceased near liquor shop and both were consumed liquor there, thereafter, the

applicant assaulted on the head of the deceased through iron rod, due to which the deceased has died. The applicant also taken his mobile phone and cash Rs. 2,500/- from his pocket. During course of investigation, on the basis of memorandum statement of the applicant, one iron rod has been seized from his possession and he has been taken in custody on 07.12.2018.

3. 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 there is no direct or indirect evidence available on record on the basis of which *prima facie* any offence can be made out against the applicant, though as per prosecution story, one iron rod has been seized from the possession of the present applicant, as reported by forensic science laboratory human blood was found on the said rod but, no serology report is available on record, therefore, from the seizure of said rod also no benefit may be given to the prosecution. Apart from this evidence there is nothing on record against the applicant. The applicant is in custody since 07.12.2018 and trial will take some time. Therefore, the applicant may be released on bail.
4. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
5. I have heard learned Counsel for the parties and perused the case diary with due care.
6. Considering the facts and totality of the case, the evidence collected by the prosecution and further considering the fact that the applicant is in custody since 07.12.2018 and trial will likely to take some time, without further commenting on merits of the case, I am inclined to release the applicant on bail.

7. Accordingly, the bail application is allowed.

8. It is directed that the Applicant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/- 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

Shubham