

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1125 of 2019**

- Netram Sidar S/o Kaliram Sidar Aged About 36 Years R/o Village- Baihamuda, Police Station- Gharghoda, civil And Revenue District- Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Gharghoda, District- Raigarh, Chhattisgarh

---- Non Applicant

For the Applicant : Shri Ashutosh Mishra, Advocate

For the State : Ms. S. Mishra, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****11.04.2019**

1. This is the 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.337/2018 registered at Police Station- Gharghoda, District- Raigarh (C.G.) for the offence punishable under Sections 302, 201 of Indian Penal Code.
3. Case of the prosecution, in brief is that applicant, deceased Brajmohan and some other persons had gone to picnic at Bankheta forest. Except applicant and deceased other persons had gone to cut the wood near the dam. Applicant and coaccused were stayed there. When other persons return back after one hour, they saw, applicant was climbed on the chest of the deceased. Then deceased was died. Applicant was shouting that he will kill deceased. Applicant also gave threat to other persons that he will kill them one by one and they throw the dead body of the deceased in the river. As per the Post Mortem report the death of the deceased was homicidal in nature.
4. Learned counsel for the applicant submits that applicant has no criminal background, he is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail.
5. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no criminal antecedent is reported against the applicant in police case diary.
6. Counsel for the applicant further submits that when the statements of some witnesses recorded under Section 161 CrPC earlier, they did not tell anything against the applicant, he drew my attention on statements of some witnesses recorded under Section 161 CrPC.
7. Later on some witnesses whose statements were recorded under Section 164 CrPC stated against the applicant.
8. The aforesaid circumstances which have been pointed out by counsel for the applicant is the subject matter of scrutiny. At this stage, this Court can not scrutinize the evidence. It is also well settled legal position that while deciding the bail application Court can not see the merits and demerits of the case.
9. Looking to the above mentioned facts and circumstances of the case, looking to the statements of some witnesses recorded under Section 164 CrPC, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, the present bail application is rejected.
10. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge

Parul