

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 1679 of 2019

- Sandeep Rathiya S/o Late Shri Girdhari Rathiya Aged About 25 Years R/o Village Chorha, Police Station- Kharsiya, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- The State Of Chhattisgarh Through The Officer In Charge Of Police Station- Kharsiya, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

For Applicant	: Shri Roop Naik, Advocate.
For Non-applicant	: Shri V. Dixit, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

28.03.2019

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. 409/2018 registered at Police Station – Kharsiya, District- Raigarh, (C.G.) for the offence punishable under Sections 302, 201, 34 of the Indian Penal Code.
3. Case of the prosecution, in brief is that on 17/02/2018 at about 16:10 hours at village Chodha the dead bodies of deceased Jaganmati and her son Jitu aged 5 years were found in injured condition. On the memorandum of applicant one full pant and one shirt having blood like stains were seized from him.
4. Learned counsel for the applicant argued that the applicant has no criminal background, he is innocent, 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 antecedent against the applicant.
6. Counsel for the applicant further submits that no incriminating evidence available on record against applicant, witnesses of alleged memorandum and seizure have been examined in trial court and they have not supported the prosecution case.
7. In the case in hand the Investigating Officer is to be examined, witness of alleged memorandum and seizure PW-2 Radhelal Rathiya turned hostile, he had stated some statement against the applicant in examination in chief though in cross-examination he had given some statements favourable to the applicant.
8. What would be the effect of such statements would be considered during the scrutiny of evidence. At this stage, this Court cannot scrutinize the evidence.
9. Considering the total material available on record, 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