

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2791 of 2019

Bal Kishun Banjare, S/o. Sadhura Banjare, Aged About 32 Years, R/o. Village Khangarpaat (Wrongly Mentioned as Khangarghat in bail rejection order), P.S. Berla, Civil And Revenue District- Bemetara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station Simga, Civil And Revenue District- Blodabazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicant : Mr. Adil Minhaj, Advocate
For Respondent : Mr. Ghansham Patel, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/07/2019

1. This is the first 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. 437/2018, registered at Police Station- Simga, District – Balodabazar – Bhatapara (C.G.) for the offence punishable under Section 302/34 of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material present in the case diary. The applicant is in jail since 23.12.2018. The only evidence i.e. present in the prosecution case is this that the applicant was last seen with the deceased before the incident that have been taken place and the other statement, which is not legally admissible is the memorandum statement given by the co-accused Anita Dahariya. The admissions

that are made by the co-accused in her statement very clearly demonstrate that she herself administered poison to the deceased. This applicant has played no role in the said commission of offence. Therefore, it is prayed that the applicant may be enlarged on bail.

3. Per contra, learned State counsel opposed the application submitting that apart from being last seen with the deceased according to the memorandum statement made by co-accused, this applicant had played a role of strangulating the deceased to death, therefore, there is active participation on the part of this applicant, therefore, he is not entitled for grant of regular bail.
4. I have heard the learned counsel for the parties and perused the case diary.
5. According to the prosecution case, co-accused Anita Dahariya was wife of the deceased Ajay Dahariya, who were having strained relation. The co-accused had love affair with this applicant. On the date of incident, the applicant, co-accused and the deceased all were present in Khandwa Mela and the deceased were last seen with co-accused person. Next day, dead body of the deceased was found and on postmortem, it was found that cause of death was suspected poisoning.
6. Considered the submissions made and the contents of the case diary. On perusal of the contents of the case diary there is no sign was found regarding deceased being strangulated to death. After considering all the facts and circumstances of the case, this Court is inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram