

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3192 of 2019**

Chanchla W/o Late Shri Satendra Sahu Aged About 26 Years R/o Village Sarna, Police Station - Raghunathnagar, District Balrampur - Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station - Raghunathnagar District - Balrampur - Ramanujganj Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh.

---- Respondent

For the Applicant	:	Ms. Soniya Kuldeep, Advocate
For the State	:	Shri Vikram Dixit, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

27/06/2019

1. This is the first bail application under Section 439 of the CrPC and there is no bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.44/2018 registered at Police Station Raghunathnagar, District Balrampur-Ramanujganj (C.G.) for the offence punishable under Sections 302, 201/34 of IPC.
3. Case of the prosecution, in brief is that on 17/06/2018 dead body of deceased Manish Yadav was found near the well at village Sarna. Injuries were present on his body. Deceased Manish Yadav had allegedly illicit relation with applicant. Co-accused Satendra Sahu, who is the husband of applicant, Kailash Ram who is the father-in-law of applicant, co-accused Sumitra Devi is mother-in-law, killed deceased Manish Sahu. Deceased was called by applicant in her house. Co-accused Satendra Sahu, Kailash Ram, Sumitra Devi put

the dead body of deceased Manish Yadav in a bag and tied it. Co-accused Satendra Sahu, Kailash Ram and Sumitra Devi made a plan to through down the bag in a well.

4. Counsel for the applicant submits that she has innocent and falsely implicated in the present case, therefore, she may be released on bail.
5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant.
6. Now we will consider what is *prima facie* evidence available on record against the applicant.
7. The complicity of the applicant is described in the memorandum of co-accused Satendra Sahu, Kailash Ram and in the memorandum of applicant herself.
8. Nothing incriminating article has been seized from the possession of applicant.
9. As per the Section 27 of the Indian Evidence Act, an accused of any offence gives some information in custody and in consequence thereof, any fact is discovered then such portion of the information is admissible as is distinctly relates to the discovery. Such information may confessional or not.
10. Hon'ble Supreme Court in the matter of **Madhu vs. State of Kerla (2012) 2 SCC 399** has laid down the following judicial precedent :-

'Relevance of the confessional statements would depend upon discovery of unknown facts based on information supplied by accused if any fresh fact have been discovered on basis of confessional statement made by accused, the same would be relevant. If not, confessional statement cannot be proved against the detriment of accused.'

11. Hon'ble Supreme Court in the matter of **Jitendra Kumar vs. State of Haryana (2012) 6 SCC 204** has laid down the following judicial precedent :-

'What has been recorded in disclosure statement of accused cannot be taken to be confession of accused in relation to commission of the crime but other part by which the motorcycle was recovered would be portion admissible in evidence. Admissible part can be safely segregated from inadmissible part in this statement.'

12. Looking to the provision of Section 27 of the Evidence Act and aforesaid judicial precedents, laid down by Hon'ble Supreme Court in **Madhu (supra)** and **Jitendra Kumar (supra)**, this court finds that the information given by an accused through memorandum is admissible in evidence to such extent it relates to the discovery of some incriminating article.

13. The (Second Additional Judge to Additional Session Judge, Ramanujganj, District Balrampur) overlooked this well settled legal principle which should have been considered.

14. Looking to the above mentioned facts and circumstances of the case, looking to the *prima facie* material available on record against the applicant, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, it is directed that if the applicant furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Court with the condition that she shall appear before the trial Court at 11.00 am as and when directed till trial and she would cooperate during the trial, she shall be released on bail.

15. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge