

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3590 of 2019

1. Sonamani Rajwade W/o Rambaran Rajwade, Aged About 40 Years, R/o Village Shyamnagar (Tamor Para), Police Station Bhatgaon, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh
2. Bimla Rajwade D/o Rambaran Rajwade, Aged About 19 Years, R/o Village Shyamnagar (Tamor Para), Police Station Bhatgaon, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Bhatgaon, District Surajpur Chhattisgarh., District : Surajpur, Chhattisgarh

----Non-applicant

For Applicant – Shri D.N. Prajapati, Advocate.

For Non-applicant/State – Shri Aditya Sharma, Panel Lawyer.

Shri Gyan Prakash Shukla, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-07-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicants for grant of regular bail. The applicants have been arrested on 21-03-2019 in connection with Crime No.43/2019 registered at P.S. - Bhatgaon, District Surajpur, Chhattisgarh for the offence under Section 302, 201, 34 of the IPC.

2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. They are in jail since 21-03-2019. There is no evidence in the prosecution case regarding involvement of these applicants in the said commission of crime and causing disappearance of the evidence. They had been made accused in this case only for the reason that they were present at the time of incident. Therefore, it is prayed that they may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that presence of the applicants on the scene of crime itself is

sufficient to prove their involvement in commission of crime in furtherance of common intention. Therefore, they are not entitled for grant of bail.

4. Learned counsel for the objector submits that the deceased was a young man of 23 years of age, therefore, it is not possible for one man to strangle him without help of other person. Apart from that, the offence has been committed in secrecy of the house of the applicants. Therefore, it is burden on the applicants to explain that they had not participated in the said commission of offence. Hence, the application may be rejected.

5. Heard learned counsel for the parties and perused the case diary.

6. According to the prosecution case, applicant No.2 had love affair with deceased Ramroop Rajwade since one year, main accused Rambaran Rajwade had come to know about it and he had warned the deceased to keep away from his daughter. It is alleged that on 21-03-2019 the deceased had come to visit applicant No.2 in her house, which was discovered by co-accused Rambaran Rajwade, the deceased then tried to flee from the house, but he fell down and then in the presence of these applicants co-accused Rambaran Rajwade strangled the deceased with a *gamchha* which resulted in the death of the deceased. Thereafter, co-accused Rambaran Rajwade with the help of his uncle Karan Rajwade shifted the dead body of the deceased to a nearby pond. Hence, this case.

7. There is no eye-witness in his case, although this is a fact that the applicants are residents of the same house, but on the basis of the memorandum statement of co-accused Rambaran Rajwade itself, it appears that he has made this confessional statement that he alone strangled the deceased. Therefore, for this reason and also for the reason that both the applicants are women, I feel inclined to allow this application.

8. Consequently, this application filed by the applicants under Section 439

of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil