

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3623 of 2019

- Pustam Gupta S/o Lala Gupta, Aged About 48 Years, R/o Village Siha Post Kotasura, Th. Pusour, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through Police Station Pusour, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

----Non-applicant

For Applicant – Shri Sanjay Agrawal, Advocate.

For Non-applicant/State – Shri Devendra Pratap Singh, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-07-2019

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 applicant for grant of regular bail. The applicant has been arrested on 29-04-2019 in connection with Crime No.129/17 registered at P.S. - Pusour, District Raigarh, Chhattisgarh for the offence under Section 302 of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. No case is made out for commission of murder against the applicant. In fact it is a case of exercise of right of private defence. The fact is this, that, deceased Kartik Sao committed lurking house trespass in the house of the applicant with intention to cause death of the applicant, his wife and his child and in execution of the same he has made assault on the applicant, his wife and his child, because of which the wife and the child of this applicant have expired. It was during the incident, that this applicant and his wife caught hold of the deceased who was then assaulted by the wife of this applicant, which has resulted in his death. It is submitted that this applicant had not participated in the said assault on the deceased. Therefore, no offence is made out against him. Hence, it is prayed

that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that this applicant had assisted in the commission of offence by tying the hands and feet of the deceased which facilitated assault to be made by his wife on the deceased which has resulted in his death. Hence, he is not entitled for grant of bail.

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

5. According to the prosecution case, on the date of incident the deceased had been to the house of the applicant and was assaulting the applicant, his wife and his child, then the applicant and his family reacted and caused death of the deceased. Hence, this case.

6. Considered on the peculiar facts and circumstances of this case and also perused the statement of the applicant himself under Section 164 of the Cr.P.C. and after due consideration, I feel inclined to grant bail to the applicant.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his 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 his appearance as and when directed.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge