

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4364 of 2019**

Abhinav Pandey, S/o Rajeshwari Pandey, aged about 21 years, R/o Q.No.A.Road 52, Bhilai, Tahsil and District Durg(CG).

---- Applicant**Versus**

State of Chhattisgarh, through Police Station Bhilai-3, District Durg (CG).

---- Non-applicant

For Applicant	: Mr. Rahil Arun Kochar, Advocate
For Non-applicant	: Ms. Sangeeta Mishra, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

25.07.2019

1. This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.200/2017 registered at Police Station Bhilai-3, District Durg for the offence punishable under Sections 302, 34 of Indian Penal Code.
2. The first bail application of the applicant was rejected on merits by this Court vide order dated 04.10.2018 passed in M.Cr.C. No.6155/2018 considering prima facie case against him.
3. Case of the prosecution, in brief, is that there was a love affair between the wife of the deceased Sanjay Kumar and the applicant, on account of which the deceased had beaten his wife and applicant also. On account of which applicant and co-accused Indar Singh @ Shanni, Palvindar Singh @ Chhotu on 06.06.2017 in night near Hatkhoj Engineering Park caused injuries on the body of the deceased by knife and pressed his head with stone. Ultimately the deceased succumbed. The call records about the talking of the applicant and deceased was seized by police. On the memorandum of applicant, one knife and one shirt have seized from him.
4. Counsel for the applicant submits that the applicant is an innocent and has been falsely implicated in the present case. He further submits that after one year of the incident, statements of some witnesses have been recorded under Section 161 of Cr.P.C. and material witnesses have been examined. He drew my attention on some paragraphs of certified copies of P.W.-1 Sanjeet Kumar Gupta, P.W.-2 Smt. Roshni

and P.W.-3 Jagdish Gond. The alleged seizure has taken place after one year of incident. These circumstances are sufficient to enlarge the applicant on bail.

5. On the other hand, counsel for the State opposes the bail application. However, she submits that no criminal antecedent is reported against the applicant in police case diary.

6. In the case in hand, Investigating Officer is yet to be examined. Merely non-supporting of some prosecution witnesses is not sufficient ground to enlarge the applicant on bail.

7. Looking to the above mentioned facts and circumstances of the case, looking to this fact that there is no change in the circumstances of the case on the strength of which the applicant be released on bail in the second bail application. Consequently, the second bail application of the applicant is rejected.

8. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-