

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4657 of 2019

Jageshwar Sahu S/o Rikhiram Sahu Aged About 41 Years R/o Village Nakti,
Post- Mana, Police Station Mana Camp, Raipur, Tahsil And District- Raipur,
Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, Police Station-
Tumgaon, District- Mahasamund, Chhattisgarh, District : Mahasamund,
Chhattisgarh

---- Respondent

For Applicant	:	Shri Vikash Pradhan, Advocate
For State	:	Shri Anmol Sharma, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/08/2019

Heard.

1. This is the second bail application on behalf of the applicant. His earlier bail application has been dismissed on 14.12.2017. The applicant has been arrested in connection with Crime No.44 of 2017 registered at Police Station- Tumgaon, District- Mahasamund (CG), for alleged commission of offences under Sections 302, 201 IPC.
2. The prosecution case is that the applicant murdered the prosecutrix, his sister-in-law, suspecting her character.
3. This Court had earlier rejected the bail application taking into consideration that according to prosecution, a nylon rope alleged to be used for strangulating the deceased has been seized from possession of the applicant and that certain bags similar to those bags in which the dead body was found elsewhere were also seized from the house of the applicant.

4. Learned counsel for the applicant would submit that the trial has not been concluded till date though large number of prosecution witnesses including seizure witnesses have also been examined. He submits that even in the FSL report, there is nothing to indicate that the rope allegedly seized from the house of the applicant contained any blood marks of the blood of the same group and origin of that of the deceased. He submits that Dr. Snigdha Jain (PW17) who has now been examined during trial has stated that the ligature mark is corresponding to ligature of the width 1.5 c.m. whereas rope allegedly seized from the possession of the applicant is only 0.42 c.m. He would also submit that prosecution has not come out with any FSL report that the bags which were found in the house of the applicant were stained with blood and, therefore, merely because those bags and bags in which the dead body of the deceased was found appear to be similar does not incriminate the applicant. He would argue that despite large number of witnesses examined by the prosecution, no clinching evidence has come forth and the prosecution case, till date, is of no evidence but of only suspicion.
5. On the other hand, learned counsel for the State would submit that the trial is still going on and looking to the serious allegation of commission of offence of murder, the applicant may not claim bail only on the ground of delay in conclusion of trial. He submits that the prima facie involvement of the applicant on the basis of seizure of rope and certain bags was considered by this Court earlier while rejecting bail application.
6. I have heard learned counsel for the parties and perused the records of the case.
7. This Court had earlier rejected the application taking into consideration that the prosecution has come out with the case of seizure of rope which according to prosecution was the one used to strangle the deceased. But, now, learned counsel for the applicant submit that Dr. Snigdha Jain (PW17) who has been examined has stated that thickness of the rope allegedly used for committing murder is different from the thickness of the rope allegedly seized from the applicant. There is nothing in the prosecution case to show that any of the articles allegedly seized from the applicant are found to be stained with human blood much less blood of the group and origin of that of the deceased. Therefore, considering these

aspects of the case, I consider it appropriate at this stage to grant bail to the applicant.

8. Accordingly, the application is 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/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court, with following further conditions:

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge