

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 4395 of 2019

- Sarfuddin @ Sonu Muslaman S/o Shri Mumtajuddin Aged About 28 Years R/o Mopka , Police Station - Bhathapara (Gramin) , Civil And Revenue District - Balodabazar Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station - Bhathapara (Gramin) Civil And Revenue District - Balodabazar Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Non-applicant

For Applicant : Shri Deves G. Kela, Advocate.

For Non-applicant : Shri D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar GuptaOrder On Board28.08.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with crime No. 305/2018 registered at Police Station – Bhathapara (Gramin), District – Balodabazar (C.G.) for the offence punishable under Sections 302, 201 of the Indian Penal Code and 25, 27 of the Arms Act.
3. Case of the prosecution, in brief is that on 05.09.2018 in the morning the beheaded deadbody of the deceased Thaneshwar Sahu was found at Mahwaribhanta of Dhurrabandha. As per the post-mortem report death of the deceased was homicidal in nature. Applicant had illicit relation with the wife of the deceased. On the memorandum of the applicant one

fullshirt having blood like stains, one human head wrapped in polythene, one jeans having blood like stains, one knife, one Katta used for cutting goat/cock (Gandasa) having blood like stains were seized from him.

4. Learned counsel for the applicant argued that there is no motive for the applicant to commit alleged offence, there is no connecting link. The witnesses of memorandum and seizure are the relatives of the deceased, the applicant has no criminal background, he is innocent, therefore, he shall be released on bail.
5. He drew my attention on the statements of paras 9 and 10 of P.W.1 Preetam Das Manikpuri, para 8 of P.W.2 Hemlal Dhruv, para 11 of P.W.8 Daulat Ram Sahu, para 11 of P.W.9 Dilharan Verma.
6. On the other hand, learned counsel for the State opposes the bail application and submitted that one excise case is registered against the applicant.
7. This is well settled position that at this stage this Court neither can scrutinize facts nor can appreciate evidence, this is also recognised situation that at this stage defence cannot be looked into. At this stage while considering bail application motive is not important.
8. Looking to the above mentioned facts and circumstances of the case, looking to the prima facie materials available on record, looking to the seriousness of the offence, looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 Cr.P.C. to the applicant.
9. Consequently, the present bail application is rejected.
10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE