

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4595 of 2019**

Manoj Kumar Yadav, son of Shri Sagun Singh, aged about 37 years, R/o village Kuajati, Police Station Ratanpur, Tahsil Kota, District Bilaspur (CG).

**---- Applicant****Versus**

State of Chhattisgarh, through Station House Officer, Police Station Kota, District Bilaspur (CG).

**---- Non-applicant**


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| For Applicant     | : Mr. Uttam Pandey, Advocate               |
| For Non-applicant | : Mr. Devesh Chandra Verma, Govt. Advocate |

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**Hon'ble Shri Justice Sharad Kumar Gupta****Order On Board****19.09.2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.516/2018 registered at Police Station Kota, District Bilaspur for the offence punishable under Sections 302 & 201 of Indian Penal Code.
3. The first bail application of the applicant was rejected on merits by this Court vide order dated 26.03.2019 passed in M.Cr.C. No.1208/2019 considering *prima facie* case against him.
4. Case of the prosecution, in brief, is that on 27.09.2018 at about 7:30 a.m. the dead body of deceased Sunit Porte was found on Railway Track between Salka Road and Belgahna. During the investigation, it was found that deceased had told some witnesses on 26.09.2018 that she has to go along with applicant at village Kekradih. On the memorandum of applicant, one ladies purse containing Voter I.D. card of deceased, her Debit Card, her Adhar Card, photographs of her and and her children, one mobile of Oppo company, one motorcycle were seized from him. It is also alleged that there was love affair between the said deceased and applicant. She had gone with the applicant by motorcycle.

5. Counsel for the applicant submitted that the applicant is an innocent person and has been falsely implicated in the present case. In support of case, he drew my attention in para No.10 of true copy of statement of Budhram (P.W.-2), paras No.3 & 7 of true copy of statement of Ram Singh (P.W.-3), paras No.3,4,5 & 8 of true copy of statement of Himanshu Tiwari (P.W.-4), para No.6 of true copy of statement of Hemant Aaditya (P.W.-7), which are the part of bail application. He further submitted that witnesses of memorandum and seizure are not appearing before the trial Court and their statements could not have recorded. He further drew my attention on photocopies of order-sheets of trial Court, which are the part of bail application. He submitted that the applicant is in jail since long time. He further submitted that on the basis of memorandum and seizure, nobody can be convicted, hence the applicant may be released on bail.
6. On the other hand, counsel for the State opposed the bail application. However, he submitted that no criminal antecedent is reported against the applicant.
7. This is well settled legal principle that while dealing with the bail application, this Court can neither scrutinize the evidence nor appreciate the evidence. It is only the trial Court, who can do so. The trial Court is also competent to compel the attendance of some witnesses.
8. Looking to the above mentioned facts and circumstances of the case, looking to the *prima facie* material available on record, looking to the alleged seizure, this Court is not inclined to release the applicant on bail in the second round of litigation. Consequently, the second bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)  
**JUDGE**