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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4342 of 2019**

Gulshan Kumar S/o Nandlal Thakur Aged About 25 Years R/o Bhatapara,
Taraud, Police Station And District Balod Chhattisgarh., District : Balod,
Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Police Staton Balod, District Balod
Chhattisgarh., District : Balod, Chhattisgarh

---- Respondent**And****M.Cr.C. No. 5166 Of 2019**

Neeraj Kumar S/o Anuj Ram Patel Aged About 18 Years R/o Bhatapara,
Tarod, Police Station And District Balod Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through Police Station Balod, District Balod
Chhattisgarh.

---- Respondent

For the Applicants : Smt. Aditi Singhvi, Advocate.
For the Respondent/State : Shri Kapil Maini, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.08.2019**

Heard.

1. Both these applications are decided by a common order as they arise from the same incident. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.73 of 2019, registered at Police Station Balod, District – Balod, Chhattisgarh for the offence punishable under Sections 450, 302, 201 and 376 (घ) read with Section 34 of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants in both the cases are in jail since 13.2.2019 and they have been falsely implicated in this case. The only evidence against them is their own memorandum statement which is not legally admissible and no recovery has been made from these applicants. Hence, it is prayed that the applicants in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that there is evidence of one witness who had last seen the applicants nearby the house of the deceased and apart from that, there is circumstantial evidence on the basis of which, the case can be established against them. Hence, for these reasons, none of the applicants deserves to be enlarged on bail.

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

5. According to the prosecution case, deceased – Binda Bai was strangled to death in her house and the door of the house was locked by the culprits. The body was discovered after three days. After merging enquiry, the FIR was lodged on 11.2.2019. On that basis, the memorandum statement of main accused – Omprakash and these applicants were recorded. At the instance of the main accused, the key to the lock of the house of the deceased was recovered, however, there is no recovery on the basis of the statement given by these applicants. It has been stated by the accused persons in their memorandum statement that all of them have raped the deceased and thereafter, main accused – Omprakash had strangled her to death. Hence, this case.

6. Considering the fact that the only evidence that appears to be confessional statement of the applicants and the co-accused that is not connected with any recovery, I feel inclined to grant regular bail to the applicants in both the cases.

7. It is directed that the applicants in both the cases shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- in respect of each crime with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge