

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5581 of 2019**

- Ekam Patel S/o Bholaram Patel Aged About 19 Years R/o Village Rampur, Police Station Kartala, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Kartala, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Non-applicant

For Applicant : Shri Anil Tripathi, Advocate.
 For Non-applicant : Shri D.K. Tiwari, Dy. Govt. Advocate
 For Objector : Shri Anand Kesharwani on behalf of Shri V. K. Pandey, Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****13.09.2019**

1. The Station House Officer Shri Anand Ram, Police Station Kartala is present along with case diary.
2. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
3. Earlier, the first bail application of the applicant was dismissed by this Court on 09.08.2019 in MCRC No. 4462 of 2019 for want of prosecution.
4. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 40/2019 registered at Police Station – Kartala, District – Korba (C.G.) for the offence punishable under Section 397, 302/34 of the Indian Penal Code.
5. Case of the prosecution, in brief is that on 10.04.2019 at about 4 pm at forest road village Nundarha, applicant and coaccused Aman Patel beat the complainant Bhaskar Pandey by hands and fist and forcefully took out Rs. 1000/- from his pocket. Complainant become unconscious on the way while going to his house. He was taken to C.H.C. Kharsia where the doctor declared

him dead. As per the post mortem report the death of the deceased was homicidal in nature and caused due to cardio pulmonary arrest due to shock.

6. Learned counsel for the applicant submits that the applicant has no criminal background. He is innocent and has been falsely implicated in the present case, he further submits that five witnesses have been examined and alleged three eye witnesses have turned hostile and did not support the prosecution case, therefore, the applicant shall be released on bail.

7. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no criminal antecedent against the applicant.

8. As per the certified copy of the statement of P.W.2 Bhay Singh which is part of the bail application, he had stated in para 2 in his examination in chief that he had seen that the applicant and one another person were beating a person. They intervened. Applicant and his companion went to Rampur by motorcycle.

9. Looking to the above mentioned facts and circumstances of the case, looking to this fact that P.W.2 Bhay Singh had stated against the applicant during the examination in chief, 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 release applicant on bail.

10. Consequently, the second bail application of the applicant is rejected.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE