

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5653 of 2019**

Gopal Singh S/o Shri Jagdhari Singh Aged About 30 Years R/o Village School Para And Loharpara, Chodhada Police Station And Tahsil Manendragarh, District- Koriya, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer Police Station Manendragarh District Koriya, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sanjeev Verma, Advocate
For the State	:	Shri D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****13/09/2019**

1. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 14/02/2019 in MCRC No. 655/2019 considering *prima facie* case against the applicant.
2. Perused the case diary provided by the counsel for the State in connection with the Crime No.149/2018 registered at Police Station Manendragarh, District Korea (C.G.) for the offence punishable under Sections 302, 201, 34 of IPC.
3. Case of the prosecution, in brief is that on 14/05/2018 at about 5.00 p.m. at near the railway overbridge, Manendragarh deceased Jagdish was found in injured condition. When it was asked to him who has beaten him, then he replied that co-accused Ajay Singh and others, thereafter he succumbed on the spot. On the memorandum of the applicant, one club of Ipomoea camea (Besham shrub) was seized from him on one end of which blood like stains were present.
4. Counsel for the applicant submitted that he has no criminal background, he is innocent and has been falsely implicated in the present case. He further submitted that 11 prosecution witnesses have been examined including seizure witnesses. He also submitted that PW-5 Smt. Laxmi Bai who is the grandmother of the deceased, PW-6

Bholasingh, PW-7 Kamlesh Kumar, PW-8 Prakash did not say the name of applicant during recording their statements by the trial Court. Applicant is in jail more than one year. Seizure witnesses have turned hostile, thus applicant may be released on bail. He drew my attention on true copy of the statements of PW-1 Ajay Singh, PW-2 Manohar Singh, PW-3 Ramavtar, PW-5 Smt. Laxmi Bai, PW-6 Bholasingh, PW-7 Kamlesh Kumar and PW-8 Prakash Singh which are part of the bail application.

5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant is reported in the police case diary.
6. This is well settled legal position that while dealing the bail application Court neither can scrutinize nor appreciate the evidence. It is only the trial Court who can do so. Turning hostile of seizure witnesses is not itself a sufficient ground to enlarge the accused on bail. In the case in hand investigating officer is to be examined.
7. This is true that detention period of the accused is a considerable factor for considering the bail application, but equally it is also true that seriousness of the offence, effect of society of granting bail are also important factors for considering the bail application.
8. In the case in hand it is not a prosecution case that any witness had told the name of applicant.
9. In the case in hand as per the prosecution story on the memorandum of the applicant one club of Ipomoea camea (Besham shrub) was seized from him on one end of which blood stains were present.
10. Looking to the above mentioned facts and circumstances of the case, looking to the *prima facie* material available on record against the applicant specially alleged seizure of one club having blood like stains, looking to the seriousness of the offence, looking to the impact on society of granting bail, this Court is not inclined to release applicant on bail in second round of litigation. Consequently, second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge