

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5915 of 2019**

- Jageshwar Yadav S/o Late Santram Yadav Aged About 33 Years R/o Nutam Chowk, Police Station Purani Bhilai, Tahsil Patan, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Purani Bhilai, Civil And Revenue, District Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

For Applicant : Shri Satish Gupta, Advocate.

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

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****17.09.2019**

1. This is third 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.
2. Earlier, the first bail application of the applicant was dismissed as withdrawn on 27.03.2019 in MCRC No. 86 of 2019 considering the prima facie case against the applicant and the second bail application of the applicant has been rejected by this Court on 01.05.2019 in MCRC No. 2629 of 2019 considering the prima facie case against the applicant.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 419/2018 registered at Police Station – Purani Bhilai, District - Durg (C.G.) for the offence punishable under Section 306 of the IPC.
4. Case of the prosecution, in brief is that applicant is the husband of the deceased Pushplata Yadav. Marriage of the deceased was solemnised with the applicant in year 2015. On 17.09.2018 about 00:30 hours applicant and dead body of the deceased were found in burnt condition in their house.

During the investigation it was found that applicant was harassing her.

5. Learned counsel for the applicant argued that the father and brother of the deceased have been examined after the rejection of the second bail application, there is no evidence of harassment, therefore, he shall be released on bail.
6. Counsel for the applicant placed reliance on the order of this Court in the matter of Santosh Vishwakarma vs. State of M.P. {(2004) 3 Crimes 147}.
7. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant.
8. In the case in hand only three witnesses have been examined, other witnesses are to be examined.
9. As per the photocopy of the statements of PW2 Gopal Yadav who is the father of the deceased, PW3 Rahul Yadav who is the brother of the deceased, they had stated in examination in chief against the applicant.
10. This is well settled legal position that while dealing the bail application Court can neither scrutinize the evidence nor appreciate the evidence. Only trial Court can do this job.
11. In the aforesaid order of this Court no principle has been laid down regarding the bail.
12. Prima facie it cannot be said that ingredients of Section 107 of the IPC do not attract in the case in hand. Thus, the applicant does not get any help at this stage from the aforesaid order of this Court.
13. Looking to the above mentioned facts and circumstances of the case, there is no material change in the facts and circumstances of the case which may entitle the applicant to be released on bail in 3rd round of litigation. consequently, the present bail application is rejected.

14. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE