

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1230 of 2020**

- Siddharth Yadav @ Jimmi, S/o Late Rakesh Yadav, Aged about 29 years, R/o Vivekanand Nagar, Dhamtari, PS City Kotwali, Tahsil & District Dhamtari (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through – PS Gurur, District Balod (C.G.)

Respondent

For Applicant : Mr. R.K. Rathi, Advocate.

For Respondent/State : Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****21.07.2020**

- The accused/applicant has moved his first bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 86/2019 registered at Police Station– Gurur, District Balod (C.G.) for the offence punishable under Sections 302 and 201/34 of Indian Penal Code.
- According to the prosecution story, on 26.03.2019 one Bharat Ram Netam lodged a merg intimation in PS Gurur that on the said date, he has gone to the fields and he received information from other people over phone that a dead body of a female was flowing through general canal, which was spotted near Salebhat. On receiving the said information, he reached near canal and found that on Tulesh Sinha along with a few others had pulled out the flowing dead body from the canal and kept it on the side of the canal. He further stated that the dead body had a jute rope tied along the neck and legs and a few injury marks were visible. The police on the aforesaid merg intimation did “*shav panchnama*” and post mortem was done of the dead body. The prosecution story is further that police did further investigation and recorded memorandum statement of the applicant/accused

and certain articles were received from the accused and on that basis the accused was arrested. Charge-sheet was filed and against the accused and his mother Mamta Yadav under Sections 302 and 201/34 of IPC.

- Learned counsel for the applicant submits that the applicant has falsely been implicated in the aforesaid case. He further submits that the case is based on circumstantial evidence and there is no eye witness in the case. Even the circumstantial evidence put forth against the accused does not put any weight on the prosecution story and the link connecting circumstances is absent. He next contended that the memorandum and seizure witnesses have not supported the prosecution case before the trial Court by stating noting incriminating against the present applicant. The applicant is in jail since 31.08.2019, therefore, he may be granted bail.
- On the other hand, counsel for the State opposes the bail application.
- I have heard learned Counsel for the parties.
- Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, detention period of the applicant and particularly the fact that the memorandum and seizure witnesses have not supported the prosecution case before the trial Court by stating noting incriminating against the present applicant. as trial is likely to take some time, without further commenting on merits of the case, I am inclined to release him on bail.
- Accordingly, the bail application is allowed.
- It is directed that the applicant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/-, with one local surety for the like amount to the satisfaction of the trial Court for his appearance before the said Court as and when directed.

Sd/-
(Rajani Dubey)
Judge