

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.CR.C. No. 1514 of 2020**

Krishna Tirkey @ Durga, S/o. Ramesh Tirkey, aged about 25 years, R/o. Village Kasra, Nagdoli, Police Station Patna, District Koriya Chhattisgarh.

**---- Applicant**

***Versus***

State of Chhattisgarh, Through : The Police Station : Patna, District Koriya Chhattisgarh.

**---- Respondent**

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| For Applicant        | : Mr. Ashok Kumar Shukla, Advocate |
| For Respondent/State | : Mr. Adil Minhaj, G.A.            |

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

**Order On Board**

**15/06/2020**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.89/2018, registered at Police Station – Patna, District – Koriya (C.G.) for the offence punishable under Section 363, 366, 376-A, 376 (2) (ॢ), 302, 201, 34 of the Indian Penal Code and Section 6 of POCSO Act, 2012.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant. The applicant is in jail since 27.04.2018. Most of the important witnesses of the prosecution case have been examined

and none of the witnesses have made any statement against the applicant. There is no eye-witness in the case against this applicant and further the applicant has been made accused in this case only on the basis of the memorandum statement. The independent witnesses of memorandum and seizure have been examined, who have not supported the prosecution case. The applicant is in jail since about more than two years and the conclusion of the trial is still long way ahead. Hence, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application. It is submitted that it is a case of commission of heinous offence of rape and murder. Out of 53 witnesses, 21 witnesses were already examined at the time of filing this bail application on February, 2020, subsequent to which number of other witnesses may also have been examined, which goes to show that trial is near completion. Further despite hostility of some of the witnesses, the prosecution may be able to establish the case against the applicant. It is submitted that article – *Gamchha* that was seized from this applicant, has been identified by the witnesses and further FSL report also connects this applicant in the commission of offence, which is yet to be proved. Therefore, no case is made out for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, the deceased Ku. Laxmi aged about 17 years was found hanging and dead. The mourage enquiry was conducted in which it was revealed that the deceased was raped and

murdered and her body was hanged to give it a look of suicide by unknown persons. After lodging of FIR, the case has been investigated. Circumstantial evidence has been collected against the applicant, on the basis of which, he is being prosecuted.

6. After considering the case of the prosecution in totality against this applicant and the gravity of the offence committed, this Court is of the view that despite of hostility of some of the witnesses in trial, present is not a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge

Balram