

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1859 of 2020**

- Bhuneshwar Namdeo alias Bhune S/o late Surendra Namdeo, aged about 50 years, R/o village Bazarpara, Sitapur, P.S. Sitapur, District Surguja (C.G.).

---- Petitioners**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Sitapur, District Surguja (C.G.).

---- Respondent

For Applicant	:	Shri Awadh Tripathi, Adv.
For Respondent	:	Shri V.K. Agrawal, P.L.

Hon'ble Smt Justice Rajani Dubey**Order on Board****16/03/2020**

1. The applicant has preferred this first bail application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is arrested in connection with Crime No.190/2018, registered at Police Station – Sitapur, District Surguja (C.G.) for the offence punishable under Section 302 IPC.
2. The prosecution story, in brief, is that on the report lodged by complainant namely Suhani wherein it has been alleged that one Pawan Khesh has committed murder of her daughter and based on this Pawan Khesh was prosecuted. Further, in 161 CrPC statement, the complainant has stated against Pawan Khesh but during the course of trial (before trial Court), the complainant has deposed against the present applicant Bhuneshwar first time, who is the witness in the prosecution case, that her daughter had performed marriage with the present applicant and family members of the applicant were not happy with the marriage. Further case of the prosecution

is that the case was closed on 03.01.2020 and the same was posted for judgment on 07.01.2020 but in view of the fact that the evidence of Bhuneshwar (present applicant), Manish Dhurve -investigating officer and Anil Pandey has not been taken properly and allowed the application filed under Section 311 of CrPC and, thereafter, implicate the applicant in the alleged offence. The present applicant has been taken into custody on 30.01.2020.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. He further submits that the name of present applicant does not find place in FIR, dying declaration and inquest report. He also submits that after completion of trail, first time the name of present applicant has come into picture as an accused. He also submits that the main allegation is against accused Pawan Khesh, who is near relative of the complainant. It is next submitted that the applicant is in custody since 30.01.2020, charge sheet has been filed and there is no likelihood of his case being decided in near future. Therefore, he may be released on bail.
4. On the other hand, learned counsel for the State opposed the bail application. Learned State counsel submits that on the basis of evidence of complainant, who is mother of the deceased, the present applicant has been arrested.
5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the totality of the facts and circumstances of the case, quality of evidence and further considering the fact that the main allegation is against co-accused Pawan Khesh, the present applicant is in custody since 30.01.2020, charge sheet has been filed against co-accused Pawan Khesh and after filing an application under Section 311 CrPC the present applicant has been implicated as an accused, without further commenting on merits of the case, I am inclined to release him on bail.
7. Accordingly, the bail application is allowed.

8. It is directed that the Applicant shall be released on bail on his executing a personal bond for a sum of Rs.25,000/- with one solvent surety for the like amount to the satisfaction of the trial Court for his appearance before the said Court as and when directed, till the final disposal of the trial.

Certified copy, as per rules.

Sd/-
(Rajani Dubey)
Judge

Pekde