

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3401 of 2020**

- Budhan Nagesiya S/o Chidra Nagesiya, aged 52 years, Occupation - Agriculture, R/o Dumardih, P.S. Dhaurpur, Tehsil Lundra, District Surguja (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through : Station House Officer, P.S. Dhaurpur, District Surguja (C.G.)

---- Respondent

For Applicant : Shri Nishi Kant Sinha, Advocate.
 For Respondent. : Ms. Sunita Jain, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****16/09/2020**

1. Heard.
2. Admit.
3. The applicant has filed this second bail application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is in custody since 21.04.2019 in connection with Crime No.24/2019 (wrongly mentioned as 24/2018 in Annexure A/2) registered at Police Station : Dhaurpur, District Surguja (C.G.) for the offence punishable under Section 302 IPC.
4. The prosecution story, in brief, is that on 20.04.2019, the applicant intimated at police station that on 19.04.2019 they had gone to village Bhediya along with his wife Karli (deceased), after their return, they went to sleep. Her wife was sleeping outside the house. At about 1.00 am, his daughter raised alarm that her mother is not responding, thereafter, he went there and saw his wife in injured

condition. Initially, the suspicion was raised on one Lalki Bai, but during the course of investigation, memorandum statement of the applicant was recorded in which he confessed his guilt. Based on this, offence has been registered. The present applicant is in custody since 21.04.2019.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He also submits that only on the basis of memorandum statement, the applicant has been made an accused but the witnesses to memorandum statement of the applicant turned hostile. He further submits that the applicant is in jail since 21.04.2019, charge sheet has been filed and there is no likelihood of his case being decided in near future and, therefore, he may be released on bail.
6. On the other hand, learned State counsel opposing the bail application submits that the body of deceased has been found in the house of applicant where both of them were sleeping.
7. I have heard learned counsel for the parties and perused the record.
8. Considering the totality of the facts and circumstances of the case, gravity of offence, quality of evidence and further considering the fact that the body of deceased has been found in the house of applicant, at this stage, I am not inclined to release him on bail.
9. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is rejected.

**Sd/-
(Rajani Dubey)
Judge**