

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3692 of 2020

Noharsai S/o Choleram Aged About 70 Years, Caste Uraon, R/o Village Babauli (Uraonpara) Police Station Dhaurpur, Tahsil And District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Dhaurpur , District Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For Applicant	:	Shri Jitendra Shrivastava, Advocate
For State	:	Shri Alok Bakshi, Addl. A.G.

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

31/08/2020

Heard.

1. The applicant has been arrested in connection with Crime No.79/2019 registered in Police Station -Dhaurpur, District- Surguja (CG) for alleged commission of offence under Section 302 read with Section 34 IPC.
2. Case of the prosecution, in brief, is that over a longstanding property dispute, co-accused Krishna assaulted the deceased, his aunt, with the help of wooden plank, in which, deceased sustained injury and died. Thereafter, Krishna, his brother Santosh and father- Noharsai, the present applicant, lifted the dead body and it was thrown in the agricultural field.
3. Learned counsel for the applicant would argue that the involvement of the applicant is based only on suspicion and memorandum statement, case diary statements, recorded five months after the incident. According to him, even according to the case of the prosecution, memorandum of

Krishna shows that it was Krishna who had assaulted and the applicant's role is alleged only to cause disappearance of the evidence by throwing the dead body in the agricultural field. Learned counsel for the applicant submits that the last seen statement of Mangal & Shiva has been recorded after five months of the incident, wherein Shiva says that Mangal had informed him regarding the incident having seen by him, one and half months after the date of incident. It is, therefore, submitted that only on the basis of suspicion, after five months, the applicant is being involved.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that the memorandum of Krishna and the last seen evidence of Mangal & Shiva, prima facie, involves the applicant. According to Krishna, he had assaulted and killed his aunt and then dead body was taken away by Krishna, Santosh and the present applicant and thrown in the agricultural field. Learned State counsel submits that Mangal and Shiva have stated that they had seen the present applicant and co-accused taking away dead body of deceased- Aghani Bai.
5. On prima facie consideration, the involvement of the applicant is based on the memorandum statement of Krishna recorded five months after the date of incident. Even according to Krishna's memorandum, the applicant was involved only in taking the dead body away from the spot and throwing it in the agricultural field so as to cause disappearance of the evidence. The last seen witness Mangal has disclosed the same that he had seen the dead body being taken away by three accused including present applicant five months after the incident, whereas Shiva, the other prosecution witness says that Mangal had informed the incident after one and half month of the incident. Considering the aforesaid material, present is a fit case for grant of bail to the applicant because even according to the prosecution, he is not involved in assault.
6. The application is accordingly allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:-

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen