

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.3846 of 2020

Gorelal Yadav S/o Karmaha Aged About 45 Years Occupation Labor, R/o Village Ulkhar, P.S. And Tahsil Sarangarh, District Raigarh Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through, Station House Officer, Police Station Sarangarh, District Raigarh Chhattisgarh

---- Respondent

For Applicant	:	Shri Awadh Tripathi, Advocate
For Respondent/State	:	Shri Ravish Verma, G.A.

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

Order On Board

19/08/2020

Heard.

1. The applicant has been arrested in connection with Crime No.341 of 2019 registered at Police Station- Sarangarh, District Raigarh (CG) for the alleged commission of offence under Section 302, 201 of IPC.
2. Prosecution case is that the deceased Sampat had unceremoniously shunted out his wife and children from the house and they were residing with present applicant in his house. Present applicant is the brother of the deceased Sampat. According to the prosecution, the applicant killed his brother by smothering and thereafter, to prove this as a case of suicide hanged the dead body of Sampat in his house.
3. Learned counsel for the applicant would argue that the applicant has been involved by the police without any evidence of circumstantial nature even remotely connecting him with the alleged commission of offence. He would submit that the allegation that the applicant killed his own brother, is based only on suspicion and after about 7 months of the date of death, on 16.02.2020, the applicant has been made accused on the basis of memorandum. It is argued that the so called recovery of a bag from the house of Sampat at the instance of the applicant is only an attempt to somehow involve the applicant on the basis of suspicion, which itself has no basis because none of the prosecution witnesses have anywhere stated that

either immediately before the incident or in the recent past, there was any quarrel between the applicant and the deceased. The applicant being the brother of the deceased, had no motive to kill his own brother when he had given shelter to the wife and the children of his brother.

4. On the other hand, learned counsel for the State opposes the bail application and submits that present is a case of circumstantial evidence. The postmortem report proves that the deceased did not die of hanging but he was smothered and died of asphyxia and thereafter, the dead body was hanged to give it colour of suicide. When upon suspicion, memorandum of the applicant was recorded, at his instance, the bag from which rope was prepared was seized from the house of Sampat. It directly connects the applicant and constitutes an incriminating circumstantial evidence. As the deceased was not maintaining his wife and children and they had become burden of the applicant, it provided a motive for the applicant to kill his own brother.
5. On prima facie considerations, the entire case of the prosecution rests on so called recovery of bag that too from the house of Sampat only. This recovery has been made on the basis of memorandum dated 16.02.2020 prepared after about 7 months of the incident. Further, none of the prosecution witnesses have stated that just before the incident or in the recent past, the applicant and the deceased had entered into any quarrel or that the applicant had threatened the deceased with any dire consequences. The applicant was the brother of the deceased. The prosecution has not come out with any clear case of motive also. Therefore, in these circumstances, present is a fit case for grant of bail to the applicant. Accordingly, the application is allowed.
6. 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