

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4111 of 2020**

- Trishul Kushwaha S/o Shivilal Kushwaha Aged About 28 Years R/o- Village- Silfili, P.S.- Jainagar, District- Surajpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, P.S.- Baikunthpur, District- Koriya, Chhattisgarh

---- Non-applicant

For Applicant : Shri Pawan Shrivastava, Advocate.

For Non-applicant : Shri Dinesh Tiwari, Dy. Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****30.06.2020**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant has been rejected by this Court on 22.10.2018 in MCRC No. 5844 of 2018 considering the prima facie case against the applicant.
3. Perused the case diary provided by the counsel for the State in connection with the Crime No.73/2017 registered at Police Station Baikunthpur, District Koriya (C.G.) for the offence punishable under Section 364, 368, 302, 201, 419 of IPC and 3(2)(5) of SCST (Prevention of Atrocities) Act.
4. Case of the prosecution, in brief is that deceased Laxmi Singh was aged about 21 years old. Applicant impersonated himself as Rahul Singh. He married with Laxmi Singh. On 17/06/2016 he took the prosecutrix to Rakashnanda Waterfall. Applicant returned back but deceased Laxmi Singh was not returned back. During the enquiry applicant told that deceased had

gone somewhere.

5. Counsel for the applicant argued that the dead body of the deceased is not recovered in the case in hand, any incriminating article has not been seized from the applicant, he is in jail since 10.04.2018, wife and 2½ year old child are dependent upon him, out of 26 prosecution witnesses only 20 witnesses have been examined prior to lockdown period, looking to the current scenario early conclusion of the trial is not possible, thus, he may be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application.

7. This is true that the detention period of the accused and delay in trial are considerable factors for the disposal of the bail application filed by the accused but equally it is also true that seriousness of the offence and impact of granting bail to the accused on society are more important factors for the disposal of the bail application filed by the accused.

8. This is well settled legal position that while dealing the bail application Court can neither scrutinize the evidence nor appreciate the same. It is only the trial Court who can do so at the time of appreciation of the evidence.

9. Moreover, in the present scenario speedy trial is not possible for trial Court.

10. Looking to the above mentioned facts and circumstances of the case, this Court finds that in the case in hand no such circumstances exist which may entitle the applicant to enlarge on bail in second round of litigation, consequently, the present bail application is rejected.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE