

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4185 of 2020**

- Abhinav Pandey @ Pintu S/o Rajeshwari Pandey Aged About 21 Years R/o Q. No. 2 A, Road 52, Bhilai Tahsil And District Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station- Bhilai-3, District Durg, Chhattisgarh

.....Non-applicant

For the Applicant	:	Shri Rahil Kochar, Adv.
For Non Applicant	:	Shri Dinesh Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Oral Order****16-9-2020**

1. At the outset, counsel for the applicant submits that he does not want to press I.A. No. 1/2020, application for grant of ad-interim bail.
2. As prayed, I.A. No. 1/2020 is dismissed as not pressed.
3. Heard the main MCRC.
4. This is 4th bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. His no other bail application is pending before any other Court.
5. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 4-10-2018 passed in MCRC No. 6155/2018 considering prima facie case against him. His 2nd bail application was rejected by this Court vide order dated 25-7-2019 passed in MCRC No. 4364/2019 considering prima facie case against him. His third bail application was dismissed as withdrawn by this Court vide order dated 11-12-2019 passed in MCRC No. 7917/2019.
6. The applicant has been arrested in connection with Crime No. 200/2017 registered in police station Bhilai-3, Distt. Durg (CG) for offence punishable under Section 302/34, IPC.
7. Case of the prosecution, in brief, is that there was a love affair between the wife of the deceased Sanjay Kumar and the applicant, on account of which the deceased had beaten his wife and applicant

also. On account of which the applicant and co-accused Indar Singh @ Shanni, Palvindar Singh @ Chhotu on 6-6-2017 in night near Hatkhaj Engineering Park caused injuries on the body of the deceased by knife and pressed his head with stone. Ultimately the deceased succumbed.

8. Counsel for the applicant submits that the applicant is in jail since 6-4-2018, he has been falsely implicated in the case, he is not named in the FIR, only alleged memorandum is against him, bail is general rule of law, circumstances have changed, seizure witnesses are examined in the trial Court and they have turned hostile and did not support the prosecution case. Earlier while dealing with the second bail application, this Court directed the trial Court to disposed of this case as soon possible preferable within six months from the date of receipt of copy of that order. No prima facie case is made out against the applicant. He drew my attention in para 3 of Annexure A-4 which is part of the bail application. Hence the applicant may be released on bail.
9. On the other hand, counsel for the State opposed the bail application. However, he submits that no criminal antecedent is reported against the applicant in the police case diary.
10. Though the applicant is not named in the FIR but some prosecution witnesses have told his role in the alleged crime in their police statements. More over, the call records of talking of the applicant and the deceased have been seized by the police, on the memorandum of applicant, one knife and one shirt have also been seized from him. Prima facie it cannot be said that no case is made out against the applicant.
11. This is true that period of detention of the accused and delay in trial are the material factors for disposal of bail application of accused but it is also equally true that seriousness of the offence and impact of grant of bail to the accused on society are more important and material factors for disposal of the bail application filed by the accused.
12. This is also well settled legal position that while deciding bail application this Court can neither scrutinize nor appreciate the evidence. It is only the trial Court which is competent to do it at the

time of appreciation of evidence.

13. Mere non-supporting of some prosecution witnesses is itself not sufficient ground to enlarge the accused on bail.
14. On 26-6-2020, this Court has extended time and directed the trial Court to dispose of the case within 3 months after resuming regular court work. In the present scenario it cannot be held that the trial Court is responsible for delay in trial.
15. Looking to the above facts and circumstances of the case and considering to the totality of the facts, this Court finds that it is not a fit case where the applicant may be released on bail in 4th round of litigation.
16. Consequently, this 4th bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge