

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4307 of 2020**

- Ekam Patel, S/o Bholaram Patel, Aged About 19 Years R/o Village Rampur, Police Station Kartala, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through - Station House Officer, Kartala, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Non-applicant

For Applicant : Shri C.J.K. Rao, Advocate.

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

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****07.08.2020**

1. This is third 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 dismissed by this Court on 09.08.2019 in MCRC No. 4462 of 2019 for want of prosecution and his second bail application has been rejected by this Court on 13.09.2019 in MCRC No. 5581 of 2019 considering the prima facie case against him.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 40/2019 registered at Police Station – Kartala, District – Korba (C.G.) for the offence punishable under Section 397, 302/34 of the Indian Penal Code.
4. Case of the prosecution, in brief is that on 10.04.2019 at about 4 pm at forest road village Nundarha, applicant and coaccused Aman Patel beat the complainant Bhaskar Pandey by hands and fist and forcefully took out Rs. 1000/- from his pocket. Complainant become unconscious on the way while going to his house. He was taken to C.H.C. Kharsia where the doctor declared him dead. As per the post mortem report the death of the deceased was

homicidal in nature and caused due to cardio pulmonary arrest due to shock.

5. Learned counsel for the applicant submitted that the applicant is in jail since 12.04.2019, he is a young boy aged 19 years, out of 22 witnesses 17 have been examined, due to pandemic situation trial is not going on, hence, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no criminal antecedent against the applicant.
7. This is true that the detention period of the accused and delay in trial are considerable factors for 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 and material factors for the disposal of the bail application filed by the accused.
8. This is well settled legal position that while dealing with the bail application this 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. As per the applicant's case 17 witnesses have been examined and only 5 witnesses are to be examined.
10. In the present scenario, it cannot be held that trial Court is responsible for delay in trial.
11. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where the applicant may be released on bail in third round of litigation, consequently, the present bail application is rejected. However, the trial Court is directed to expedite the trial and dispose off the case as soon as possible preferably within three months after resuming the regular working of the Court.
12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE