

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4938 of 2020**

- Ravi Yadav S/o Shri Somaru, Aged About 21 Years R/o Village - Puhputara, Tilgapara, Police Station And Tahsil - Lakhanpur, District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through - The Station House Officer, Police Station - Lakhanpur, District - Surguja Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Non-applicant

For Applicant : Shri Satish Gupta, Advocate.

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

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****30.09.2020**

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 was rejected by this Court vide order dated 08.05.2019 in MCRC No. 2757 of 2019 considering the prima facie case against him and the second bail application of the applicant has been rejected by this Court on 13.02.2020 in MCRC No. 1021 of 2020 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. 215/2018 registered at Police Station – Lakhanpur District - Surguja (C.G.) for the offence punishable under Sections 306/34, 498A/34 and 302/34 of the IPC.

4. Case of the prosecution, in brief is that applicant is the husband of the deceased Anchal Yadav, the marriage of deceased was solemnized with him on 18.04.2018. After some time of marriage, applicant was harassing her on account of demand of cash Rs. 50,000/- for purchasing motorcycle. Other coaccused also used to beat her. On 24.10.2018, deceased consumed poison as a result of which she died.
5. Learned counsel for the applicant argued that the applicant is in jail since 14.12.2018, post mortem report does not support prosecution case, he is not the habitual offender, due to corona virus situation is very critical, the statement of P.W.3 Shambhu Ram Yadav who is the father of the deceased, P.W.4 Smt. Amraso who is the grand mother of the deceased are different from their case diary statements. P.W.3 and P.W.4 did not say anything against applicant, they turned hostile, P.W.3 Shambhu Ram Yadav is not appearing before the trial Court for cross examination, one coaccused Somaru is already enlarged on bail by this Court, coaccused Sumitra and Chandramani are enlarged on anticipatory bail by the coordinate Bench by this Court, the case of applicant is similar, hence he may be released on bail.
6. Counsel for the applicant to substantiate his argument placed reliance in the judgment of the Hon'ble Supreme Court in the matter of **Girdhar Shankar Tawade-vs-State of Maharashtra [2002 (5) SCC 177]**, specially he drew my attention on para No. 6 of the judgment.
7. On the other hand, learned counsel for the State opposes the bail application.
8. 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.

9. 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. Moreover, in the case in hand, P.W.3 Shambhu Ram Yadav and P.W. 4 Smt. Amraso have stated against applicant during examination in chief.

10. In the present scenario, it cannot be held that the trial Court is responsible for delay in trial.

11. While dealing the first bail application this Court has given the finding in para 7 of the order dated 08.05.2019 that the case of the applicant is totally different and more severe than the case of the coaccused who have been enlarged on bail.

12. The aforesaid judgment of the Hon'ble Supreme Court does not deal with the aspect of the bail. The said judgment relates to appreciation of evidence after conclusion of the trial.

13. Looking to the above mentioned facts and circumstances of the case, considering the totality of the case, this Court finds that this is not a fit case wherein applicant may be released on bail in third round of litigation. Consequently, the present bail application is rejected.

14. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE