

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5380 of 2020**

- Ramdas Yadav S/o Rajkumar Yadav Aged About 19 Years Resident Of Neelkanthpur ,Police Station Ramchandrapur, District Balrampur Ramanujanj Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Ramchandrapur, District Balrampur Ramanujanj Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. D. N. Prajapati, Advocate
For Non Applicant	:	Mr. D. C. Verma, G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****08.10.2020**

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 was rejected by this Court vide order dated 23.08.2018 passed in MCRC No.5138 of 2018 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.01/2018 registered at Police Station- Ramchandrapur, District- Balrampur-Ramanujanj, (C.G.) for the offence punishable under Section 302, 120B, 201, 34 and 376(2)(b) of IPC and Section 3(2)(V) of Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act.
4. Case of the prosecution in brief is that deceased had love affair with the applicant. On 18.12.2017 near about 7.00 a.m. deceased had alone gone to forest. Applicant chased her and committed sexual intercourse with her promising to perform marriage. Thereafter, applicant brought the deceased in his house. He intimated his brother Kailash Yadav that he brought the deceased in the house. Deceased refused to left their house. Applicant and co-accused Kailash Yadav killed the deceased and thrown her dead body in

Upka Dam.

5. Counsel for the applicant submitted that trial is delayed, memorandum and seizure witnesses P.W.6 Sagar Singh and P.W.7 Laxmi Singh did not support the prosecution case. He drew my attention on photocopy of Para No.4 and 14 of statement of P.W.2 Vidya Sagar who is the father of the deceased, photocopy of Para 3 of statement of P.W.1 Lakho Devi who is the mother of the deceased which are the part of bail application. He further submitted that co-accused Kailash Yadav has been bailed out by this Court, applicant is also on same footing and he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application.
7. On 03/01/2018 applicant's alleged memorandum was recorded. On 03/01/2018 at about 14.15 hours a bunch of black brown hairs was seized from the applicant. As per the seizure dated 03/01/2018, at 15.50 hours bunch of brown and black hairs was also seized from the applicant. As per the RFSL report dated 27/02/2018 hair Article 'E' allegedly seized from the deceased during the postmortem on 05/01/2018 is identical to the hair Article 'G' which was allegedly seized from the applicant on 05/01/2018. As per the statement of Laxmi Singh, applicant had told him on 19/12/2017 that he made inquiry whether the deceased is alive or dead.
8. This is true that delay in trial and detention period of the accused are material 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 material and important factors for disposal of the bail application filed by the accused.
9. This is also well settled legal position that while dealing the bail application Court neither can 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.
10. This is also well settled legal position that while dealing the bail application Court cannot touch the merits and demerits of the case.
11. While dealing the first bail application of applicant this Court has given finding in Para 7 of the order dated 23.08.2018 that the case of applicant is totally different from the co-accused Kailash Yadav. Hence, the principle of parity does not attract in the case in hand.
12. Prima facie, it appears that the date 05.01.2018 has been wrongly mentioned in RFSL report.

13. In the case in hand, I.O. is yet to be examined.

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

15. However, trial Court is directed to expedite the trial and dispose of the case as soon as possible.

16. Applicant is free to file subsequent bail application according to law and procedure.

Sd/-
(Sharad Kumar Gupta)
Judge

parul