

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No.5784 of 2021

- Sanjay Kumar Chouhan, aged about 23 years, Son of Shodhan, Caste-Gada, R/o village- Putuwa, Amabhatha, Police Station Katghora, District Korba (CG)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through the Station House Officer, Police Station Katghora, District Korba (CG).

....Non-applicant

For Applicant :	Mr. Aditya Khare, Advocate.
For Non-applicant :	Mr. Uddhav Sharma, Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

29.10.2021

1. This is first application under Section 439 of CrPC for grant of regular bail to applicant who is in custody since 30.5.2021 in connection with Crime No.130/21 registered at Police Station Katghora, District Korba (CG) for commission of offence under Sections 302 & 120B of the IPC.
2. Case of prosecution, in brief, is that in the morning of 30.5.2021 dead body of Krishna Kumari Goswami was found lying in kitchen garden (बाड़ी) situated at backside of her house. Merg was intimated and thereafter FIR was registered. During course of investigation, applicant was arrested based on his memorandum statement.
3. Mr. Aditya Khare, learned counsel for applicant would submit that applicant was having love affair with deceased but he has not committed any offence as alleged against him. Applicant was interrogated only on the basis of suspicion and based on his memorandum statement, he was arrested. Except memorandum statement of applicant, there is no material available in charge sheet connecting applicant with crime in

question. He pointed out that police during course of investigation recorded statement of Nevendra Dewangan under Section 161 of CrPC, who specifically stated that prior to incident, deceased sent whatsapp message on his mobile that her parents will not leave her alive. Even after recording of statement of Nevendra Dewangan under Section 161 of CrPC, mobile phone or whatsapp chats were not seized and made part of charge sheet. He submits that as death of deceased was under suspicious circumstances, help of Dog Squad was also taken during investigation. Parents of deceased were also interrogated, however, this fact does not find place in charge sheet. Applicant is in jail since 30.5.2021, there is no material connecting him with crime in question, hence he may be enlarged on regular bail.

4. On the other hand, Mr. Uddhav Sharma, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that there was love affair between applicant and deceased, applicant was suspecting that deceased is in relationship with some other person, which is the basis to commit alleged crime by him. He submits that in memorandum statement recorded by police, applicant has confessed his guilt, hence he is not entitled for grant of regular bail.
5. I have heard learned counsel for parties.
6. Taking into consideration nature of allegations; fact that dead body of deceased was found in the backside of her house; alleged murder of deceased is stated to have been committed in the night intervening 29th & 30th May, 2021; statement of Nevendra Dewangan recorded under Section 161 of CrPC, material collected by police, without commenting anything on merits of case, I am inclined to release the applicant on regular bail.

7. Accordingly, the application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to satisfaction of trial Court concerned on the conditions that;

- he shall appear before trial Court concerned regularly on each & every date unless exempted from appearance.
- he shall not, in any manner, tamper with the prosecution witnesses.
- if applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/