

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6458 of 2020**

- Anup Kumar Sai, S/o Shri Harishchandra Sai, Aged About 60 Years, R/o Bagharachaka, Police Station- Brijraj Nagar, District- Jharsugda Odissa.

---- Applicant**Versus**

- State Of Chhattisgarh Through: The Station House Officer Of Police Station Chakradhar Nagar, Tahsil & District Raigarh Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Surendra Singh, Senior Adv. with Mr. Manoj Paranjpe, Adv.
For Respondent/State	:	Mr. H. S. Ahluwalia, Dy. A.G.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****08.04.2021**

1. The matter is heard through video conferencing.
2. The accused/applicant has moved this **second bail application** under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 158/2016 registered at Police Station- Chakradhar Nagar, District Raigarh, (C.G.) for the offence punishable under Sections 302, 201, 120(B)/34 of IPC.
3. Earlier, the first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after examination of the material witnesses.
4. The prosecution story, in brief is that, on 07.05.2016, dead bodies of two persons i.e. woman & a child found at the road and the scene of occurrence would give an impression that they were killed at the spot. The applicant-accused has been arrested in the present case due to his involvement in causing death of afore-mentioned two persons. Based on this, offence has been

registered against the applicant and he has been taken into custody on 13.02.2020.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that present applicant is aged about 60 years and suffering from various disease, he was admitted in hospital and he is being treated for heart and kidney ailments. His first bail application was dismissed as withdrawn but till date, no progress in the trial due to lock-down and looking to the material available against the applicant in this case, further detention of the applicant is not justified. He further submits that in this case, FIR was registered against unknown persons on 07.05.2016 and surprisingly, after lapse of one year i.e. on 11.05.2017 the unknown dead-bodies were identified by Sunil Shrivastava. Even in initial 161 statement of Sunil Shrivastava, he did not disclose the last seen theory at the relevant point of time and keep mum for four years, then surprisingly in 164 and 161 statements recorded after four years, the so-called last seen witnesses namely Yudhisthir Sahu, Sunil Shrivastava and Yadram Patel have categorically stated about last seen theory at Dhaba, but there is no explanation with that regard that, why they all keep mum for more than four years. Apart from that, the applicant is 60 years old aged person and suffering from various disease and recently underwent some critical surgeries, there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail, he is ready to furnish adequate surety and shall abide by all the terms and conditions which may be imposed by this Court. Learned counsel for the applicant also placed reliance in the cases of **Shahid Khan Vs. State of Rajasthan reported in AIR 2016 SC 1178**, **Suresh Vs. State of Haryana reported in AIR 2018 SC 4045**, **Gangula Ashok Vs. State of Andhra Pradesh reported in AIR 2000 SC 743 & Rajendra Kumar Vs. State reported in AIR 1980 SC 1510**.
6. On the other hand, counsel for the State has vehemently

opposed the bail application and submits that applicant has committed serious offence and made his statement for dismissal of the bail application. He further submits that It is clear from the prosecution story that on 07.05.2016, dead bodies of two persons i.e. woman & a child found at the road and the scene of occurrence would give an impression that they were killed at the spot, however, things were created in such a manner to give an impression that an accident was occurred at the spot. During the investigation, the statements of the witnesses have been recorded and mobile details have also been collected. It has come in the statement of the witnesses that the applicant-accused and the deceased woman used to live together like husband and wife and in the month of April 2016, the accused took the deceased woman and her child together with him on a car and after that the witnesses have not seen the deceased woman and child duo and thereafter, the applicant-accused have taken all material kept in the house and sold the same to Sarad Kumar Sahu. Therefore, no case is made out to release him on bail.

7. I have heard learned counsel for the parties and perused the record.
8. After considering the whole facts and circumstances of the case, especially nature and gravity of crime in question, at this stage, I am of the view that it is not a fit case to release the applicant-accused on bail.
9. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is rejected.

**Sd/-
(Rajani Dubey)
Judge**

Ruchi