

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7462 of 2020

Ramesh Kumar Agariya S/o Lautan Agariya, Aged About 30 Years R/o Sarna,
Police Station Raghunathnagar, District Balrampur Ramanujganj Chhattisgarh,
District : Balrampur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Raghunathnagar, District Balrampur Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh

---- Respondent

For Applicant : Shri S.S. Rajput, counsel for the applicant.

For State : Shri Neeraj Pradhan, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/01/2021

Heard.

1. The applicant is arrested in connection with Crime No.101/2018 registered in Police Station- Raghunathnagar, District- Balrampur-Ramanujganj (CG) for alleged commission of offence under Sections 302, 201 IPC.
2. Case of the prosecution, in brief, is that the applicant committed murder of the deceased with the motive that the deceased was having an evil eye on the wife of the applicant and on complaint being made, the deceased was not accepting the allegation.
3. Learned counsel for the applicant would argue that the entire case of the prosecution is based only on the last seen evidence that on 25.12.2018, the applicant had come in the morning and went along with the deceased stating that measurement of land is to be conducted. Thereafter, the deceased never

returned home and after about four days, the dead body of the deceased was found in jungle on 29.12.2018. Learned counsel further submits that the date on which the applicant is said to have gone with the deceased was long back, four days before the date of recovery of the dead body and the postmortem report does not reveal the time of death. Learned counsel submits that the motive, as alleged, on the part of the applicant is highly improbable. It is next submitted that except the evidence of the wife of the deceased that four days before, the applicant had come in the morning and deceased had gone along with him, there is no incriminating evidence which, upon proved during trial, coupled with the evidence of last seen would entail conviction. He would argue that only evidence of last seen without any circumstantial evidence would not lead to conviction. Therefore, the applicant may be released on bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that though the prosecution's case rests on circumstantial evidence only, wife of the deceased had clearly stated that on 25th December 2018, in the morning, the applicant had come and that the deceased went along with the applicant and, thereafter, the deceased never returned and when search was being made, after about four days, on 29.12.2018, dead body was recovered and the postmortem report shows homicidal death. Learned counsel for the State submits that in the memorandum of the accused, he has admitted the guilt before the police that he killed the deceased.
5. I have heard learned counsel for the parties. In the present case, involvement of the applicant is based only on evidence of last seen and except this, the prosecution has not come out with any other evidence. The last seen evidence is of 25.12.2018, whereas, the dead body was recovered on 29.12.2018. Postmortem report does not show the probable time of death. The evidence of motive on the part of the applicant is not stated by any of the witnesses whose case diary statement was recorded.
6. Taking into consideration the submission of learned counsel for the applicant that only on the basis of weak evidence of last seen without any other circumstantial evidence, conviction may not result and that the applicant is in

jail since 30.12.2018, I am inclined to allow the application.

7. The application is accordingly allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:-

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen