

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 7445 of 2020**

- Vijaynarayan Kushwaha S/o Late Shri Rameshwar Kushwaha Aged About 50 Years R/o Village Koteya, Police Station And Tahsil Bhaiyathan, District Surajpur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through: Station House Officer, Police Of Police Station Jhilmili, District: Surajpur, Chhattisgarh.

---- Respondent

For Applicant	-	Shri Anil Gulati, Advocate
For Respondent	-	Shri Ayaz Naved, Government Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board**08/01/2021**

1. Heard.
2. The applicant has preferred this bail application under Section 439 of the Cr.P.C., as he has been arrested in connection with Crime No.94/2019, registered at Police Station: Jhilmili (as per charge sheet), District: Surajpur (C.G.) for the offence punishable under Section 302, 201 r/w 34 of Indian Penal Code.
3. Deceased Pradeep Kushwaha is son of co-accused Rambai. When Pradeep Kushwaha was an infant, aged about two years, his father died, therefore, his uncle Dhirsay took him to his own village for his upbringing. On 22-06-2019, Pradeep

Kushwaha came to his mother's place at village Koteya, however, he was not seen by the villagers on 24-06-2019. Later on his dead body was found in the courtyard of his house, in the early morning of 25th June, 2019. Merg intimation was lodged by Dhirsay, thereafter, FIR was lodged against unknown person. The deceased was found to have died on account of asphyxia due to strangulation.

4. The investigation did not make much headway for about one year, however on 20-08-2020, one Rajesh Kushwaha heard the present applicant and Rambai talking amongst themselves that one year has lapsed and nobody has come to know that they have murdered Pradeep Kushwaha. On this statement of Rajesh Kushwaha, Rambai was interrogated and her memorandum statement was recorded wherein, she disclosed to the police that she and the present applicant strangled the deceased because he had seen them in an objectionable position. Subsequently, memorandum statement of the present applicant was also recorded.
5. It appears there is no eye witness to the incident. The statement of Rajesh Kushwaha was recorded after about one year and two months. It is debatable and shall be put to test during trial as to whether the conversation between the two accused heard by Rajesh Kushwaha would amount to extra judicial confession.
6. Learned State counsel would oppose the prayer for grant of bail.

7. The applicant is in jail since 01.07.2020 and charge sheet has already been filed, therefore, considering the quality of evidence, I am inclined to release the applicant on bail.
8. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond for a sum of Rs.50,000/- with one surety for the like amount to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

SD/-

(Prashant Kumar Mishra)
Judge

Amardeep