

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8087 of 2020**

Surajbhan Sidar, S/o Natthu Ram Sidar, aged about 26 years, R/o Village Chitwahi, P.S. Tamnar, District Raigarh (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Tamnar, District Raigarh (CG).

---- Non-applicant

 For Applicant : Mr. Ashish Gupta, Advocate
 For Non-applicant : Mr. D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****18.01.2021**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other Court.
2. The applicant has been arrested in connection with Crime No.139/2018 registered in Police Station Tamnar, Raigarh, District Raigarh for the offence punishable under Sections 302, 120-B, 460, 201 of Indian Penal Code.
3. The first bail application of the applicant was rejected on merits by this Court vide order dated 18.02.2019 passed in M.Cr.C. No.9713/2018 considering *prima facie* case against him.
4. In brief the prosecution story is that on 09.06.2018 Bhupdev Mishra, who is the father of the deceased Shivam Mishra found dead body of deceased in his house and injury was found on his neck. During the investigation, it was found that co-accused Kanha Das had illicit relation with co-accused Deepika Mishra. Applicant and co-accused Kanha Das, Deepika Mishra, Chanesh Ram Sidar hatched conspiracy to kill the deceased. Co-accused Kanha Das made an agreement with the applicant, co-accused Chanesh Ram Sidar to kill the deceased. Co-accused Kanha Das was agreed to give them One lakh rupees for this purpose. He had given a sum of Rs.20,000/- as advance to them. Applicant and co-accused Kanha Das & Chanesh Ram Sidar had entered in the house of deceased on 08.06.2018 in the night, where applicant and co-accused Chanesh Ram Sidar killed the deceased by axe. There are call details record of applicant and co-accused Deepika Mishra, Chanesh Ram Sidar and Kanha Das. On the memorandum of the applicant, one mobile, Rs.5000/- cash, one axe; one towel having blood like stains were seized from him.

5. Counsel for the applicant submitted that as per RFSL report, blood like stains were found disintegrated and the result was negative so far as it is concerned with the human blood on alleged seized axe, which is marked as 'D' and one towel, which is marked as 'E', hence the case of the applicant becomes identical to the case of co-accused Kanha Das, Deepika Mishra, Chanesh Ram Sidar, hence the applicant may be released on bail.
6. On the other hand, counsel for the State opposed the bail application.
7. On the strength of this fact that RFSL report is negative regarding alleged seized one axe and one towel from the possession of the applicant, it cannot be said that the case of the applicant is identical to other co-accused, who have been released on bail. Moreover as per query report dated 12.07.2018 doctor opined that there is uniformity between blunt part of alleged seized axe and injury of deceased.
8. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where the applicant be released on bail in the second round of litigation. Consequently, his second bail application is rejected. However, the trial Court is directed to expedite the trial and conclude the case as soon as possible from the date of receipt of certified copy of this order.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)

JUDGE

L/-