

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 625 of 2021**

- Ashok Kumar Patel S/o Ramprasad Patel Aged About 32 Years R/o Village - Darwaaza, Outpost - Khudia, Police Station And Tehsil - Lormi, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Police Of Outpost - Khudia, Police Station Lormi, District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

For Applicant : Shri Prasoon Agrawal, Advocate.

For Non-applicant : Shri R. Verma, Government Advocate.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****08.02.2021**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 14.05.2019 in MCRC No. 2939 of 2019 considering the prima facie case against the applicant.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No. 537/2018 registered at P.S.- Lormi, District – Mungeli (C.G.) for the offence punishable under Section 302, 201, 34 of the Indian Penal Code.
4. Case of the prosecution, in brief is that on 19.12.2018, at village Darwaaza, dead body of deceased Tati patel was found in injured condition. One shirt having blood like stains was seized from the possession of the applicant.

5. Learned counsel for the applicant argued that none of the prosecution witnesses has stated against the applicant, they said against the coaccused Nathu @Shivnath Patel before the trial Court. He drew my attention on the certified copy of statement of P.W.1 Geeta Bai, para 2 of the certified copy of statement of P.W.2 Ramkumar, para 7 of the certified copy of statement of P.W. 3 Hathiram Patel, para 1 of the certified copy of statement of P.W. 4 Shivkumar Patel, para 1 of the certified copy of statement of P.W. 6 Tilak Ram and para 3 of the certified copy of statement of P.W. 7 Ramdhun Patel which are part of the bail application. He further submitted that co-accused Nathu @ Shivnath has been released by the coordinate Bench of this Court, hence, principle of parity is applicable in the case in hand. He placed reliance on the order of this Court dated 29.11.2018 passed in the matter of *Venktesh Kanhaiya vs. State of Chhattisgarh in M.C.R.C. No. 8487/2018*. In these circumstances, the applicant may be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application.

7. In the case in hand, this is not the prosecution case that the case is based on eye witness/ witnesses but the prosecution case is based on circumstantial evidence.

8. In the case in hand, allegedly one shirt having blood like stains has been seized from the applicant. Allegedly the seizure witnesses and investigation officer are to be examined.

9. The co-ordinate Bench of this Court granted bail to the accused Nathu @ Shivnath by order dated 07.01.2021 passed in M.CR.C No. 6814 of 2020. In the case in hand second feature is that earlier on 14.05.2019 this Court had rejected the bail application of the applicant.

Thereafter, on 07.01.2021 coaccused Nathu @ Shivrath was granted bail by the coordinate Bench of this Court. The order of the coordinate Bench does not reveal that this aspect was considered that earlier this Court has rejected the first bail application of the applicant. Hence, the principle of parity does not attract in the case in hand and the applicant does not get any help from the aforesaid order passed by this Court.

10. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where the applicant may be released on bail in second round of litigation.

11. Consequently, the second bail application of the applicant is rejected. However, the trial Court is directed to expedite the trial and dispose off the case as soon as possible.

12. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE