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**(2019) 08 CHH CK 0082**

**Chhattisgarh High Court**

**Case No:** Criminal Miscellaneous Petition (CRMP) No. 3898 Of 2019

Dhaneshwar Prasad Napit

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** Aug. 13, 2019

**Acts Referred:**

- Code Of Criminal Procedure, 1973 - Section 439
- Indian Penal Code, 1860 - Section 201, 302

**Hon'ble Judges:** Rajendra Chandra Singh Samant, J

**Bench:** Single Bench

**Advocate:** Punit Ruparel, Aaditya Sharma

**Final Decision:** Allowed

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**Judgement**

Rajendra Chandra Singh Samant, J

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has

been arrested in connection with Crime No.235/2018, registered at Police Station - Dongargaon, District - Rajnandgaon (C.G.) for the offence

punishable under Section 302, 201 of the Indian Penal Code.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since

29.08.2018. One constable - Arti Kunjam went missing on 17.08.2018. Subsequent to that one dead body was found in the river of which the head and

both upper and lower limbs were missing. The dead body was identified by Shiv Balak Singh Kunjam, the father of the missing Arti Kunjam as the

body of his daughter, which is not conclusive identification and the police has not conducted any DNA test for confirmation of this identification and

without any evidence, this applicant has been prosecuted. In further development, all the important witnesses have been examined before the trial

Court and none of them have supported the prosecution case. Therefore, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there are

yet some witnesses to be examined, therefore, the case against the applicant may take new turn, hence, the application be rejected.

4. I have heard the learned counsel for both the parties and perused the case diary.

5. According to the prosecution case, one Arti Kunjam went missing on 17.08.2018 and thereafter, the dead body that was recovered with missing

limbs was identified by her father. During the investigation, it was found that the applicant and the deceased had some relationship on that basis, the

charge-sheet has been filed against the applicant.

6. Considered on the submissions made and the contents of the case diary. Considered on all the material present in the case diary and also perused

the certified copy of the deposition of all the witnesses, who have been so far examined before the trial Court and also perused the diary statement of

two of the witnesses, who are yet to be examined. After over all consideration, this Court is of the opinion that present is a fit case, in which, the

applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the

satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.