

Learned counsel for the petitioner submits that wrongly in the cause title, he has mentioned the case number as S.T. Case No.14 of 2015 and in fact the correct case number is C.T. Case No.14 of 2015 and he seeks permission to correct the same. Permission is granted.

This is an application under Section 439 Cr.P.C. in connection with C.T. Case No.14 of 2015, arising out of Bijepur P.S. Case No.93 of 2013 pending in the Court of learned Addl. Sessions Judge, Padampur for offences punishable under Sections 302/34 of IPC.

The petitioner moved an application for bail before the learned Addl. Sessions Judge, Padampur which was rejected on 23.05.2015.

Learned counsel for the petitioner submits that the petitioner is in custody since 25.2.2015 and in the meantime after completion of investigation, charge-sheet has been submitted under sections 302/34 of IPC and the case has already been committed to the Court of Sessions and it is now pending in the Court of learned Addl. Sessions Judge, Padampur in C.T. Case No.14 of 2015. Learned counsel for the petitioner further submits that the occurrence in question stated to have taken place on 26.4.2013 and the dead body of Kasta Kathar was found on the outskirts of the village near a cattle shed and the post-mortem was conducted but though mode of death was opined to be asphyxia but the cause of death was kept reserved. Though the viscera was sent for chemical analysis but as per the chemical examination report ethyl alcohol, methyl alcohol, barbiturates, benzodiazepine group of drugs, insecticidal, alkaloidal, rodenticidal and metallic poison could not be detected in the viscera. Learned counsel for the petitioner further submits that on 21.8.2013, the wife of the deceased namely Basanti Kathar lodged the First Information Report indicating the petitioners involvement in the crime but her statement before police indicates that she is a post-occurrence witness. Learned counsel for the petitioner further submits that there are no eye witnesses to the occurrence and the only material available on record is that a bracelet was found lying near the dead body and some of the villagers stated that the bracelet belongs to the petitioner. The learned counsel for the petitioner further submits that such statements have been subsequently created just to implicate the petitioner in the alleged crime and in view of the nature of material available on record, it cannot be said that the prima facie case under section 302 of IPC is made out against the petitioner.

Learned counsel for the State has produced the Case Diary, placed the post-mortem examination report as well as medical examination report and does not dispute that the only material available against the petitioner is recovery of a bracelet lying near the dead body and there was dispute between the petitioner and the deceased prior to the occurrence.

Considering the submissions made by the learned counsels for the respective parties, the nature of accusation against the petitioner, absence of any direct evidence against the petitioner, and the type of circumstantial evidence available against him as well as the period of detention of the petitioner, I am inclined to release the petitioner on bail.

Let the petitioner be released on bail in the aforesaid case on furnishing bail bond of Rs.20,000.00 (rupees twenty thousand) with two solvent sureties each for the like amount to the satisfaction of the Court in seisin over the matter with further terms and conditions as the learned Court may deem just and proper.

Accordingly, the BLAPL is disposed of.

Urgent certified copy of this order be granted on proper application.

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S. K. Sahoo, J.