

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4048 of 2018**

Jaidha Khunte S/o Vishram Khunte, Aged About 26 Years R/o Village Barela, Police Station - Jarhagaon (Wrongly Mentioned As Jaravgaon), District Mungeli Chhattisgarh., District : Mungeli, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station - Kota, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant : Shri V.R. Tiwari, Advocate.
For the Respondent/State : Shri Neeraj Mehta, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****05.07.2018**

Heard.

1. This is the second bail application of the applicant. The first bail application of the applicant was dismissed as withdrawn on 19.9.2017 in M.Cr.C. No. 5019 of 2017. The applicant has been arrested in connection with Crime No.66 of 2017, registered at Police Station – Kota, District Bilaspur, Chhattisgarh for the offence punishable under Sections 341, 294, 302, 324 and 506 part-II of the Indian Penal Code.

2. Learned counsel for the applicant submits that the applicant is in jail since 14.3.2017 and has been falsely implicated in this case. His name has not appeared in the last statement given by the deceased to the police which may be regarded as dying declaration showing him as one of the assailants.

Apart from that, almost 18 witnesses have been examined by the concerned trial Court and no adverse statement has been given against the applicant. Hence, it is prayed that the applicant be enlarged on 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 is evidence of eyewitness as to show that the applicant was present alongwith main accused – Rakesh Singh Thakur at the time of assault on the deceased, which resulted in his death. Hence, the applicant is not entitled for bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the case of the prosecution, co-accused – Rakesh Singh Thakur had a grievance with deceased – Faguram, because he had objected and protested the sale of liquor in the village. On 14.2.2017, co-accused – Rakesh Singh Thakur assaulted the deceased with clubs causing him fatal injury and he died on 17.2.2017. The statements of the deceased has been recorded by the police before his death which discloses only the name of co-accused – Rakesh Singh Thakur as the assailant.

6. On perusal of the material present in the case-diary and after due consideration of the facts I am of this view that the applicant is not the main accused in this case and he deserves to be released on 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 furnishing a personal bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-

(Rajendra Chandra Singh Samant)
Judge