

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 793 of 2018

- Resham Lal S/o Badhram @ Tikra Tandan Aged About 52 Years Caste- Satnami, R/o- Village Faguram, Ward No. 8, Tahsil Malkharoda, P.S. Dabhra, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The District Magistrate, Police Station Dabhra, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondent

For Applicant : Mr. Jeet Patel, Advocate.

For Respondent : Mr. Rahul Tamaskar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

04/09/2018

1. This is the second bail application filed by applicant under Section 439 of CrPC. His first bail application was dismissed as withdrawn.
2. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.71/2017 registered at Police Station- Dabhra, District – Janjgir-Champa(C.G.), for the offence punishable under Sections 294, 506, 323, 302, 147, 148 & 149 of the Indian Penal Code.

3. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. He had played no role in the commission of offence as alleged in this case. His name did not find place in the FIR lodged initially and subsequently the complainant added his name as one of the assailants. Other witnesses i.e. daughter, mother and sister of the deceased, have not named this applicant as one of the assailants in their statements under Section 161 of CrPC. Hence, looking to the various lacunae which are present in the case investigated against the appellant, the applicant is entitled to be released on anticipatory bail.
4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the complainant in his statement recorded under Section 161 CrPC and thereafter in his statement under Section 164 CrPC has specifically mentioned the name of this applicant as one of the assailants. Hence, no case is made out for grant of anticipatory bail to applicant.
5. Heard both the parties and perused the case diary.
6. The case against the applicant is this that Rajkumar had gone to his in-laws house to bring back his wife, a quarrel ensued between the deceased, applicant and co-accused and in the course of said quarrel the accused persons assaulted the deceased by hands, fists & stones and unfortunately the injuries so inflicted resulted in his death. Hence, this case.
7. As has been submitted by the counsel for applicant that the name of this applicant as one of the assailants has not been there at the initial stage and even otherwise, some of the witnesses omitted name of the applicant. Hence, looking to these facts, I am of this view that this is a

fit case where the applicant should be enlarged on anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Rajendra Chandra Singh Samant)
Judge