

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5093 of 2018**

Mohammad Shahnawaj S/o Mohammad Yunus Aged About 20 Years R/o Shankar Chowk, Nayapara, Police Station Gole Bazar, Raipur, District Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Purani Basti, Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Manoj Paranjpe, Advocate
For Respondent : Mr. Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/08/2018

1. This is the first bail applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.230/2017, registered at Police Station- Purani Basti, Raipur, District – Raipur (C.G.) for the offence punishable under 302, 323, 427, 506-B, 294 read with Section 34 of the Indian Penal Code..
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. Applicant is in jail since 17.08.2017. No case is made out against him according to the material present in the charge-sheet. The eye-witnesses in this case have been examined before the trial Court, who have not supported the prosecution case. Apart from that, no other eye-witnesses are to be examined in the trial. Rest of the circumstantial, evidence to be produced before the Court does not connect the applicant directly in the alleged crime in

question. Hence, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, the learned counsel appearing for the State opposes the bail application and the submission made in this respect. It is submitted that even though the eye-witnesses have turned hostile, the case still has the support of circumstantial evidence as the seizure of bucket, which was used for assault and causing fatal injuries to the deceased has been made from this applicant. Hence, the application for grant of regular bail may be rejected.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. On the date of incident on account of some dispute during the ceremony of *Matka-fod*, on the next day of Janmastami, this applicant assaulted the deceased Raghunath Thakur with steel bucket and the co-accused Ajay Mali assaulted the deceased with hands and fists. Subsequently, the deceased died as a result of the injuries caused to him.
6. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary, and also considering the certified copy of the statement of eye-witnesses, which shows that they have not supported the prosecution case and have been declared hostile by the prosecutor. The cause of death of the deceased was cardiac respiratory failure on account of head injury, there was no internal head injury caused to the deceased, hence, after due consideration on all the material present on record and the deposition of the eye-witnesses, 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 Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge