

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7395 of 2017

- Komal Bharti S/o Dashrath Bharti, Aged About 29 Years, R/o Village Pathara, Thana Purani Bhilai, District Durg, Chhattisgarh., Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Purani Bhilai, Civil And Revenue District Durg, Chhattisgarh., Chhattisgarh

---- Non-applicant

For Applicant – Shri Vikram Sharma, Advocate.

For Non-applicant/State – Shri Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-01-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant for regular bail. The applicant has been arrested on 29-04-2016 in connection with Crime No.165/2016 registered at Police Station Purani Bhilai, District Durg, Chhattisgarh for the offence under Section 147, 148, 149, 449, 302/34 of the IPC.

2. It is submitted on behalf of the applicant that the applicant is innocent and has been falsely implicated in this case. The incident that happened earlier on the same day had been the reason wherein the wife of this applicant had some exchange of words with some members of the deceased party, because of which, one FIR was lodged by Jagannath Chaturvedi against some of the accused persons. Subsequently, the incident took place in the night at 11 p.m. in which the deceased Ganesh Bharti and others were chased, the witnesses escaped, but the Ganesh Bharti failed to jump the wall and later he was found injured and he subsequently died. It is apparent that there is no eye-witness in this case. Recovery from this applicant is only one bamboo stick, it cannot be

regarded as a weapon of offence for the purpose of committing murder of any person. The applicant is in jail since 29-04-2016. Hence, it is prayed that applicant may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made. It is submitted that the applicant had been one of the persons who chased the deceased and others and when the other witnesses left the spot and came back in search of the deceased, he was found in injured condition and subsequently he died. It is submitted that there is clear evidence that the applicant was member of the chasing party and consequent to this chase death of the deceased has resulted. Hence, his role cannot be separated and he is responsible for the act of common object of the unlawful assembly. Therefore, the applicant is not entitled for grant of bail.

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

5. Facts of the case have been briefly discussed above. As the case is, it shows that the applicant had been one of the accused party actively participating in all the activities which has resulted in death of the deceased. Hence, for this reason, no case is made out for grant of regular bail to the applicant.

6. Consequently, the application (MCRC No.7395/2017) filed by the applicant for grant of regular bail is hereby dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge