

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1524 of 2018

- Thaneshwar @ Sonu Meshram S/o Dinesh Meshram aged about 29 Years R/o Village - Mainpur, Post Office and Police Station - Gariyaband, District - Gariyaband, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station - Gariyaband, District - Gariyaband, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shivendu Pandya, Advocate.

For Respondent : Mr. A.K. Mishra, Panel Lawyer.

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

03/12/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.139/2018 registered at Police Station- Gariyaband, District – Gariyaband (C.G.), for the offence punishable under Sections 294, 323, 506(B), 452 & 304 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. It is submitted that earlier the offence under Sections 294, 323, 506B & 452 of IPC was registered against the applicants, however, on account of death of victim after after 19 days of the incident, the offence under Section 304 of IPC has

been added. Hence, the applicant has apprehension that he will be arrested and send to jail. No case is made out under Section 302 of IPC, hence, it is prayed that he may be enlarged on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the doctor has opined in the postmortem report that cause of death is septicemia, shock due to old injuries caused to the deceased, which has direct nexus with the injury caused by this applicant, hence, the application is liable to be rejected.
4. Heard both the parties and perused the case diary.
5. It is alleged that on the date of incident, this applicant committed house trespass in the place of residence of deceased Prem Lal Yadav and then by abusing and threatening assaulted him with club causing injuries to him. Date of incident was 12.7.2018 whereas complainant Prem Lal Yadav died on 31.7.2018 and subsequent to which the offence under Section 304 of IPC has been added.
6. Considered on the material present in the case diary, the postmortem report shows that the injuries caused to the deceased was healed but at the same time the autopsy surgeon has opined that the septicemic shock because of the old injuries was the cause of death of the deceased. This opinion needs to be clarified. In other words, it can be said that the injuries were not direct cause of the deceased and it was the shock or infection of untreated wound which has resulted in the death of deceased which contradicts the finding in autopsy that the wounds were healed. For these reasons, I am of this view that this is a fit case where the applicant should be enlarged on anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants 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