

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3339 of 2019

Jayshri, S/o. Gayaji, Aged About 25 Years, Caste - Kanwar, R/o. Bataikela (Tongritola) , Police Station - Kansabel, Tahsil - Kansabel, District - Jashpur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : The Station House Officer, Police Station - Bagbahar, District - Jashpur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Jitendra Kumar Saxena, Advocate
For Respondent/State	: Mr. Avinash K. Mishra, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/07/2019

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.134/2017, registered at Police Station – Bagbahar, District – Jashpur (C.G.) for the offence punishable under Section 302 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant. The applicant is in jail since 12.04.2019. Charge-sheet in this case has been filed after completion of investigation. According to the evidence i.e. present, no case of murder is made out against this applicant. It was a heat of moment, the applicant had only

kicked once on the chest of the deceased. The death of the deceased had been a result of his own physical infirmity, therefore, the applicant is hopeful to succeed in the trial. Therefore, it is prayed that the applicant may be enlarged on regular 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 are eye-witness of the incident, hence, the applicant is not entitled to be released on regular bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. According to the prosecution case, on the date of incident, this applicant on account of some dispute got enraged and kicked the deceased Shyamji Paikara on his chest once. Thereafter, the deceased went unconscious and when he was brought to the hospital on the next day, doctor declared him dead. Postmortem report shows that the deceased has suffered multiple fracture in ribs.
6. Considered on the submissions made and the contents of the case diary. After perusal of the contents of the case diary, it appears that cause of death of the deceased is not clear from the postmortem report. Therefore, 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 the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the 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

Balram