

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 1189 of 2019**

- Rakesh Dubey, S/o Late Janki Prasad Dubey Aged About 34 Years, R/o Ghowa Mandi, Gondpara, Police-Station-City Kotwali, Bilaspur, District- Bilaspur, Chhattisgarh.

**---- Applicant**

**Versus**

- State of Chhattisgarh Through Station House Officer, City Kotwali, Bilaspur, District-Bilaspur, Chhattisgarh.

**---- Respondent**

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For Applicant : Mr. Siddharth Rathod, Advocate.  
For Respondent : Mr. Ghanshyam Patel, Govt. Advocate.

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

**05/09/2019**

1. This is second bail application filed by the applicant under Section 438 of the Code of Criminal Procedure, 1973. His first application bearing MCRCA No.1327 of 2018 was rejected on merits vide order dated 13.11.2018.
2. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.206/2018 registered at Police Station- City Kotwali, Tahsil & District-Bilaspur, Chhattisgarh for the offence punishable under Sections 294, 451, 506, 302/34 of IPC and Sections 4 & 5 of Chhattisgarh Tonhi Pratadna Nivaran Adhiniyam.

3. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. It is submitted that the cause of death of the deceased is very much disputed, which was not taken into consideration in the earlier order passed by this Court. The documents obtained under the Right to Information Act, 2005 show, that in the first medical examination that was conducted on 6.5.2018, no head injury was noticed. Apart from that, applicant himself was under hospital admission regarding which documents have been filed. Further, the date and time of incident in which the deceased suffered injury is also disputed. The deceased in this case has died after 40 days of the incident, which cannot be said to be directly connected to the incident of assault. Therefore, it is prayed that he may be enlarged on anticipatory bail
4. Learned State counsel opposes bail application and submissions made in this respect. It is submitted that in the earlier application filed by this applicant, this Court has given decision on merits, therefore, this repeat applicant is not maintainable.
5. Heard both the parties and perused the case diary.
6. The documents that have been filed by the applicant are not part of the case diary. The applicant wants to dispute the date and time of assault, the injury cause to the deceased in the incident and also regarding the presence of this applicant on the spot and time of the incident. All these submissions are the grounds in defence to contest the case against the applicant. Submissions and statements made on behalf of the applicant do not find any support from the case diary, therefore, I do not find any substance to entertain this repeat bail application and the same is accordingly dismissed.

7. Accordingly, the anticipatory bail application is rejected.

Sd/-  
(Rajendra Chandra Singh Samant)  
Judge

Nisha