

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5263 of 2019

- Santosh Kumar Chouhan S/o Gulapi Chouhan, Aged About 35 Years, R/o Village Dabhara, Ward No.09, Police Station and Tahsil Dabhara, District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Dabhara, District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

----Non-applicant

For Applicant – Shri Ishwar Jaiswal, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

20-09-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 15-11-2018 in connection with Crime No.499/2018 registered at P.S. - Dabhara, District Janjgir-Champa, Chhattisgarh for the offence under Section 294, 323, 34, 302 of the IPC.
2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. He is in jail since 15-11-2018. Initially offences were registered under Section 294, 323 and 506 of the IPC. However, the deceased died after 11 days. The postmortem report very clearly mentions as cause of death was cardio respiratory arrest and the doctor opined that it may be due to post trauma effect of the injury which was caused to him in the incident. This opinion is without any basis, the applicant had never intention to cause death of the deceased. Therefore, it is rayed that the applicant may be granted bail.
3. Learned counsel for the State/non-applicant opposes the application

submitting that opinion of the doctor in the postmortem report very clearly connects the incident with the death of deceased, therefore, the application may be rejected.

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

5. According to the prosecution case, on the date of incident this applicant and one co-accused were spitting in front of the house of deceased Mannulal, when the deceased and others tried to advise the applicant and another then the applicant along with co-accused after abusing and threatening the deceased assaulted him with hands and fists and slipper causing injuries to him. After passing of about 11 days the deceased died. Thereafter, on the basis of the medical report given by the doctor the offence under Section 302 of the IPC added in this case.

6. The opinion given by the doctor is clear on this point that cause of death was cardio respiratory arrest, whereas, the other opinion that it may be as a result of post trauma effect of the injuries caused to him needs examination in detail because looking to the injuries caused to the deceased such possibility needs further appreciation. After considering on the facts and circumstances of this case, I feel inclined to allow this application.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge