

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1803 of 2019**

- Narsingh Dhruv S/o Birsingh Dhruv, aged 26 years, R/o village Kudekela Rajput Para, P.S. Chhal, District Raigarh, Civil and Revenue District Raigarh (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through : Officer Incharge, Police Station Chhal, District Raigarh (C.G.)

---- Respondent

For Applicant	:	Shri Ashutosh Mishra, Adv.
For Respondent	:	Shri Vinod Tekam, P.L.

Hon'ble Smt Justice Rajani Dubey**Order on Board****08/01/2020**

1. The applicant has preferred this first bail application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is arrested in connection with Crime No.144/2018, registered at Police Station – Chhal, District Raigarh (C.G.) for the offence punishable under Sections 147, 148 and 302/149 IPC.
2. The prosecution story, in brief, is that on 11.09.2018 at about 07.00 AM, the applicant along with other accused persons formed unlawful assembly armed with deadly weapon and in furtherance of common object assaulted deceased Andu @ Anand Ram Dhruv resulting in his death. Based on this, offence has been registered. The present applicant has been taken into custody on 12.09.2018.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the case. He further submits that the applicant is suffering from H.I.V. disease and he needs special medical treatment. He also

submits that the applicant is in custody since 12.09.2018, the charge sheet has been filed and there is no likelihood of his case being decided in near future. Therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposed the bail application. He submits that there is 3 eye-witnesses to the incident who have deposed against the applicant.
5. A report from Jail Superintendent, District Jail, Raigarh was called for and, according to the report of Medical Pharmacist, Jail Hospital, District Jail, Raigarh, the applicant is suffering from H.I.V. disease. The Supreme Court in the matter of **Dipak Shubhashchandra Mehta. Vs. Central Bureau of Investigation and another** reported in **(2012) 4 SCC 134**, held in para 32, which reads thus:-

“32. *The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted, particularly, where the accused is charged of having committed a serious offence. The court granting bail has to consider, among other circumstances, the factors such as (a) the nature of accusation and severity of punishment in case of conviction and the nature of supporting evidence; (b) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant; and (c) prima facie satisfaction of the court in support of the charge. In addition to the same, the court while considering a petition for grant of bail in a non-bailable offence, apart from the seriousness of the offence, likelihood of the accused fleeing from justice and tampering with the prosecution witnesses, have to be note.*

6. As observed above, I am of the conscious of the fact that the present applicant along with others is charged with commission of murder, investigation has been completed and charge sheet has been filed, therefore, the presence of the applicant in custody may not be necessary. Further,

considering the health condition of the applicant (H.I.V. positive) as supported by the documents including the certificate of the Medical Pharmacist, Jail Hospital, District Jail, Raigarh, I am of the view that the applicant is entitled to an order of bail pending trial on stringent conditions in order to safeguard the interest of the prosecution.

7. In the light of what is stated above, the applicant is ordered to be released on bail on his executing a personal bond for a sum of Rs.1,00,000/- (Rs. One Lac only) with one solvent surety for the like amount to the satisfaction of the trial Court for his appearance before the said Court as and when directed, on the following conditions:-

- (i) 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 to disclose such facts to the court or to any other authority.
- (ii) The applicant shall remain present before the court on the dates fixed for hearing of the case, for any reason due to unavoidable circumstances for remaining absent he has to give intimation to the concerned Court and make a proper application that he may be permitted to be present through counsel.
- (iii) The applicant shall not leave the headquarters without prior permission of the trial Court concerned.

Certified copy, as per rules.

Sd/-
(Rajani Dubey)
Judge