

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5431 of 2020**

- Mohd. Ishan S/o Munna Khan Aged About 26 Years Resident Of Taj Nagar, Satnami Basti Mod, Police Station- Tikrapara, Raipur, District Raipur, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through- Station House Officer, Police Station Tikrapara, Raipur District Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Krishna Kumar Dixit, Advocate
For State	:	Shri Gagan Tiwari, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****08/10/2020**

Heard.

1. The applicant has been arrested in connection with Crime No.359/2018 registered at Police Station – Tikrapara, District – Raipur (C.G.) for alleged commission of offences under Section 147, 148, 149, 294, 506 – part II, 323, 324, 325, 307, 302 of IPC and Section 25, 27 of Arms Act.
2. Prosecution case is that the applicant and other accused arrived at the spot and entered into fight with the deceased – Rajesh Dhiwar and other persons in which incident, Rajesh died of stab injury and five other persons sustained injury.
3. Learned counsel for the applicant would argue that as far as present applicant is concerned, he could not be involved in alleged commission of offence with the aid of Section 149 CrPC because he was not part of the unlawful assembly which is said to have stabbed Rajesh. It is submitted that he had reached the spot at a later point of time only to rescue other accused and fight was going on at the spot. He further submits that all the eye witnesses have now been examined and no one has stated that who actually assaulted Rajesh and other injured persons. He also submits that the applicant is in jail since 23/08/2018 and at this stage, when the trial has not been

concluded and trial is not likely to conclude early because of the pandemic situation, the applicant may be granted bail.

4. On the other hand, learned counsel opposes bail application and submits that present is a case of grave nature where Rajesh died of stab injury. In the statement of eye witnesses who were about five in number, not only presence of the applicant is stated but overt act on the part of the applicant in assault is also there. Therefore, there is *prima facie* involvement of the present applicant also with other co-accused in the incident leading to death and injury.

5. Taking into consideration the gravity of allegations and material collected during investigation, without commenting on appreciation of evidence of the witnesses who have already been examined, present does not appear to be a fit case for grant of bail. The application is, accordingly, rejected.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge