

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5749 of 2020**

- Jogsai Kumhar S/o Dayaram Kumhar Aged About 55 Years R/o Devgarh, Pandripani, Police Station Sitapur, Tehsil Sitapur District Surguja Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Sitapur, District Surguja Chhattisgarh.

---- Respondent

For Applicant	:	Shri Manoj Paranjape, Advocate
For State	:	Shri Gagan Tiwari, Govt. Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****12/10/2020**

1. Heard on application for grant of bail.
2. The applicant has been arrested on 19.05.2020, on the allegation of having committed offence under Section 302/34 of I.P.C. He moved this application for grant of bail in connection with Crime No.37/2020 registered at Police Station- Sitapur, District- Sarguja (C.G.).
3. Prosecution case is that the applicant and three other co-accused have assaulted the deceased with the help of hard and blunt object, axe and caused death.
4. Learned counsel for the applicant would argue that the applicant is falsely implicated in the incident. The argument is when Sukhlal lodged marg FIR on 13.04.2020 followed by his diary statement on the same day in which he only named other three accused and not the present accused. He would submit that the other witness Vishwanath also given his diary statement on 10.05.2020 and only named remaining three accused and present accused not named but his involvement is based on case diary statement given by Samina on 10.05.2020 in which she has stated for the first time that the applicant was also involved in the alleged commission of offence. Thereafter,

Sukhlal Manjhi has changed his statement under Section 164 of CrPC involving the present applicant, now impleading the present applicant also. It is further stated that the first informant Sukhlal in FIR, as well in case diary stated regarding the incident, therefore, present is case of false implication of the applicant. Incident happened outside house of the present applicant.

5. On the other hand, learned State Counsel opposes the prayer for grant of bail and submits that though initially name of the applicant was not involved in the merg FIR and diary statement given by Sukhlal Manjhi and Vishwanath, Samina stated so in diary statement on 10.05.2020, followed by her statement under Section 164 CrPC that she has seen the incident in which the deceased was assaulted not only by other co-accused but by the present applicant also and in the incident, as per *Post Mortem* report, the deceased sustained fracture and injuries on head which are sufficient to cause death.
6. I have heard learned counsel for the parties and it prima facie appears that Sukhlal lodged merg followed by F.I.R. on 13.04.2020 thereafter diary statements were also recorded on the same day in which applicant was not named. He stated that the disclosure of the incident is based on what was stated to him by Samina. Diary statement of the Vishwanath was also taken but the applicant was not involved. The case diary statement of Samina recorded on 10.05.2020 that for the first time name of the applicant included alongwith three other accused. Therefore, considering the aforesaid circumstance that initially the applicant was not named, therefore, it is a fit case for grant of bail.
7. Accordingly, the bail application is 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 two local sureties for the like amount to the satisfaction of the Trial Court on the condition that-
 - a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicant shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Judge