

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.5723 of 2020**

- Tiku Sahu S/o Late Mahavir Sahu Aged About 25 Years R/o Ghasidas Nagar, Jamul, Thana - Jamul, Tehsil And District Durg, Chhattisgarh.

---- **Petitioner****Versus**

- State Of Chhattisgarh Through Station House Officer, Thana - Jamul, Tehsil And District Durg, Chhattisgarh.

---- **Respondent**

For Applicant	:	Shri Avinash Chand Sahu, Advocate
For Respondent/State	:	Shri Ravish Verma, GA

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

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.36/2020 registered at Police Station Jamul, District Durg for the offence punishable under Section 302/34 of the IPC. The applicant was arrested on 27-01-2020.
2. Prosecution case is that the present applicant along with other co-accused murdered the deceased by means of lathi, hands and fists.
3. Learned counsel for the applicant would submit that in the present case, the applicant has been falsely implicated. He would submit that the incident is alleged to have happened on 29-10-2019 and according to the prosecution, the deceased was found dead in the house of the co-accused Bedram and from the house of Bedram, the deceased was brought to his house and after that, took him to the hospital and even at the time of lodging mere intimation, Jayram Thakur did not say anything that he had seen any assault on his brother-Toshan Sahu. He would next submit that after about three months, all of a sudden, FIR was registered on 26-01-2020, in which, for the first time, it is alleged that Toshan Sahu died homicidal death and thereafter, his brother Jayram Thakur and another person-Biru Yadav came out by stating that they had seen the incident three months before. He would submit that later on, during mere enquiry, it is suspected that Toshan Sahu died homicidal death, then the

applicant has been implicated, therefore, this is a case of false implication.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that though in the beginning, when body of Toshan Sahu was brought to his house from the house of Bedram, a report of assault and homicidal death was not lodged, but later on, during merg enquiry, it was revealed that Toshan Sahu died homicidal death, because of assault given by the accused. He would submit that statement of brother of the deceased- Jayram Thakur and another person-Biru Yadav reveals that they disclosed about the incident after three months, is a matter of trial and at this stage, they are eye-witnesses of the incident, which prima facie involves the applicant in the alleged incident, where the deceased and the accused were consuming liquor together and later on, a dispute arose at the spot, in which, all the accused started assaulting the deceased including the present applicant also by means of hands and fists.

5. On prima facie consideration, it is found that the body of Toshan Sahu was found in the house of Bedram and from there, it was brought to his own house and thereafter, the body was taken to the hospital by brother of the deceased and at that time, Jayram Thakur did not make any allegation nor lodged any report that his brother was assaulted by the accused. Even another person Biru Yadav also did not disclose about the incident to anybody and for the first time, FIR was lodged on 26-01-2020. Thereafter, Jayram Thakur and Biru Yadav started claiming themselves to be eye-witnesses of the incident, which happened three months before. Therefore, in these circumstances, when charge sheet has been filed, the present appears to be a fit case for grant of bail.

6. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.25,000/- along with one local surety of the like amount to the satisfaction of the concerned trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

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