

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6239 of 2020**

- Anul Ram @ Arun Son Of Asaru Ram, Aged About 28 Years Caste - Ghasi, Resident Of Village - Korna, Police Station - Duldula, District- Jashpur (Chhattisgarh)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station - Duldula, District - Jashpur (Chhattisgarh)

---- Respondent

For Applicant	:	Mr. J.K. Saxena, Advocate.
For State	:	Mr. Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****14/10/2020**

Heard.

1. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.46/2019 registered at Police Station- Duldula, District - Jashpur, C.G. for the alleged commission of offence under Sections 302 & 34 of IPC.
2. Prosecution case is that the applicant and co-accused murdered the deceased by assaulting with the help of stone, which resulted in brain injury.
3. Learned counsel for the applicant would argue that the applicant has been involved in the alleged commission of offence only on suspicion because there are allegations that the applicant was having illicit relation with the wife of the deceased. He would submit that he was neither last seen with deceased nor with the wife of the deceased on and around the date, time and place of the incident. He would further argue that recovery of stone is made from an open place near the place of incident, therefore, the alleged memorandum recovery has no relevance. Therefore, present case is based only on suspicion and nothing more.

4. On the other hand, learned State Counsel opposes and submits that in the background of applicant having illicit relation with the wife of the deceased, prosecution has stated that on 16.07.2019, deceased has gone to meet his wife near road side *Dhaba* and there a quarrel took place between deceased and his wife and thereafter his wife left the *Dhaba* and on the next day, dead body of the deceased was found near a stop dam and recovery of stone which is alleged to be used in assaulting the deceased due to which deceased died, has been recovered at the instance of the present applicant, therefore, prima facie, a case of involvement is made out.

5. On prima facie considerations, from the material disclosed in the case diary and charge sheet, applicant's involvement is based on allegedly having illicit relation with the wife of the deceased. However, except this, there is no evidence of last seen or extra-judicial confession or any incriminatory evidence to make a prima facie case. Recovery of stone said to be seized from a spot near the place of incident is an open place and there is no material to show that the stone was stained with human blood. Further statement of one Vasant Kumawat is regarding quarrel of the deceased with his wife on 16.07.2019, presence of the applicant at that spot has not stated. Even brother of deceased who stated that deceased left the house to meet his wife at Dhaba but thereafter did not return, has also not stated that he saw the deceased going along with present applicant. Therefore, considering the totality of the circumstances, present is a fit case for grant of bail to the applicant.

6. 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/- along with two local sureties of 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) He shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge