

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6951 of 2020**

- Nirmal Kujur son of Piyush Kujur aged about 53 years, Caste-Uraon, resident of Village- Tatkela, Police Station-Bagicha, District Jashpur C.G.

-----Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Bagicha District Jashpur, C.G.

---- Non-applicant

For Applicant	:	Mr. J.K. Saxena, Advocate
For Non-applicant	:	Mr. Siddharth Dubey, Dy.Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**ORDER****09/12/2020**

1. Applicant has preferred this application under Section 439 Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.87/2019 registered at Police Station Bagicha, District Jashpur (C.G.) for the offence punishable under Sections 120-B, 147, 148, 149, 302, 201/34 of IPC.
2. Case of the prosecution is that on 15.06.2019 at about 06:00 am, a complaint was lodged by Athnas Lakra father of deceased Arvind Lakra mentioning therein that his son Arvind is found hanging on the tree. During the course of investigation, dead body of Arvind was sent for post mortem report in which it has come out that death

of Arvind Lakra was on account of *cardio respiratory arrest* due to head injury. Statements of Bibiana Lakra who is mother of deceased, Athnas Lakra who is father of deceased, L.L. Lakra who is wife of deceased, Smt. Phool Kumari Lakra and Smt. Neelu Kumari Lakra were recorded and five persons including the present applicant were arrested for the aforementioned offences.

3. Mr. J.K. Saxena, learned counsel for the applicant submits that there is absolutely no evidence or any incriminating material available in the case diary against the present applicant. As per the statement of father and mother of the deceased that in night deceased slept along with them, he woke up in the mid night at about 02:00 am, went out from his house and returned back, then after sometime, again he went out from the house, father of the deceased followed him but he could not find out him outside the house and came back. In the morning, Arvind Lakra was found hanging on the tree. There is no eye witness to the incident as alleged. Police, during the course of investigation, seized one club from the possession of present applicant but it was not recorded that the club was found with blood stains or not, hence, the present applicant cannot be connected with the alleged offence levelled against him. He further submits that as per the statement of parents of the deceased itself it is apparent that the deceased was suffering with some mental ailment and prior to the date of incident also he came to house after causing injury on his own legs. On account of his mental illness only, the parents/ family members of the deceased had brought him back to house from his work place at Raigarh in electricity department.

4. On the other hand, Mr. Siddharth Dubey, learned counsel for the Non-applicant opposes the submissions made by the learned counsel for the applicant and submits that wife of the deceased clearly stated in her statement recorded under Section 161 CrPC that on the date of incident deceased was with one Anuranjan Kujur and prior to the date of incident, time and again, some adverse comment was regularly made by the deceased against Anuranjan Kujur. Injury suffered by the deceased was ante-mortem and in the memorandum statement of the present applicant, club was seized from nearby bush to the house of present applicant. There is seizure of club from the applicant, hence, his bail application may be dismissed.
5. I have heard learned counsel for the respective parties.
6. Considering the statement of parents of the deceased in which they have very categorically mentioned that in the intervening night of 14.06.2019 and 15.06.2019 deceased slept with them till 3:00 am and suddenly he went out without intimating anything to them. There is no mention with regard to presence of present applicant at the time of incident near the house of deceased or anybody has seen the deceased in the company of present applicant. Except the seizer of club as mentioned in the seizer memo, no other article was seized from the applicant.
7. Considering the overall facts and circumstances of the case and the material available in the case diary, without commenting on merits of the allegation, I am inclined to allow the bail application.

8. Accordingly, the bail application is allowed. It is directed that the applicant be released on regular bail, upon furnishing a bail bond in the sum of Rs.10,000/- with one surety in the like sum to the satisfaction of the Court on the conditions 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.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge