

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7633 of 2020**

- Vyasnarayan Koshle @ Golu S/o Naresh Koshle, Aged About 29 Years R/o Village Sarda, Ward No.16, Police Station Berla, District Bemetara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Berla, District Bemetara Chhattisgarh

---- Respondent

For Applicant	:	Shri Uttam Pandey, Advocate
For State	:	Shri Ravish Verma, Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****20/11/2020**

Heard.

This is second bail application. Earlier bail application was dismissed as withdrawn with liberty to revive.

1. The applicant has been arrested in connection with Crime No.169/2019 registered at Police Station – Berla, District – Bemetara (C.G.) for alleged commission of offences under Section 302 of IPC.

2. Prosecution case is that the applicant assaulted the deceased with knife repeatedly on vital part resulting in death.

3. Learned counsel for the applicant would submit that the applicant has been involved in the alleged commission of offence on very suspicious circumstances which do not make out a *prima facie* case of involvement of the applicant. It is next submitted that involvement of the applicant on the basis of statement of nephew of the deceased Narottam that when he came to the house of the deceased, he saw the present applicant jumping over the wall and running away, was taken after five

days of the incident, which itself shows that he is the planted witness. It is next submitted that a knife was recovered which is alleged to have been seized, could not be proved by the prosecution because prosecution witnesses of seizure have not turned up during trial despite repeated summons issued by the Trial Court. It is next submitted that the applicant is in jail since 01/06/2019 and only few witnesses remain to be examined but due to pandemic, trial could not be concluded. Therefore, on the aforesaid ground, the applicant may be granted bail.

4. On the other hand, learned State counsel opposes bail application and submits that the prosecution case is based on the circumstantial evidence. There is clinching material on record which *prima facie* makes out a case, as the nephew of the deceased saw the applicant jumping over the wall and the deceased was found in blood bath. When the memorandum was taken, knife was recovered and witness of seizure are yet to be examined. Next submission is that the prosecution cannot be attributed with delay because the applicant himself has moved an application under Section 311 CrPC for re-examination of as many as 6 witnesses due to change of counsel. Next submission is that the trial could not be concluded because of the pandemic situation. Now, the situation has changed and the Court has started physical functioning from 17/11/2020. Therefore, the application, at this stage, may be rejected because only few witnesses remain to be examined.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the statement of Narottam and recovery of knife and blood stained clothes, the application is rejected.

Further, it is found that only few witnesses remain to be examined. The Trial Court shall do well to conclude the trial as early as possible by appropriately prioritizing trial of the present case depending upon the length of under trial detention of the applicant.

6. Learned counsel for the applicant raises an apprehension that the observations made by this Court may adversely affect the trial.

It goes without saying that the observations made by this Court are only for the purposes and are confined on the consideration of bail application and shall have no effect on the assessment of evidence led before the Trial Court.

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