

NAFR

(Proceeding through video conferencing)
HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 34 of 2021

- Sheikh Salim, S/o Sheikh Karim, aged about 42 years, R/o Jamatpara, Thana City Kotwali, Rajnandgaon (CG)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station City Kotwali, District Rajnandgaon (CG)

---- Non-applicant

For Applicants	:	Mr. A.D. Burman, Advocate
For Non-applicant	:	Mr. Priyank Rathi, Panel Lawyer
For Objector	:	Mr. Amiyakant Tiwari, Advocate

Hon'ble Mr. Justice Parth Prateem Sahu
Order On Board

25.6.2021

1. This is first bail application filed on behalf of the applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who is in custody since 22.9.2020 in connection with Crime No.429/2020 registered at Police Station City Kotwali, Rajnandgaon (CG) for commission of offence punishable under Sections 147, 148, 149, 452, 427, 302, 307 & 120B of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 21.9.2020 when Parvez Qureshi was returning back to his house from the house of Raja Sriwas after taking dinner and reached near his car in front of house of Raja Sriwas, applicant along with other co-accused persons namely Salman @ Vicky, Mukul Netam,

Simon Peter, Premchand & Kartik armed with sword, battleaxe, knife came on the spot, caused grievous injuries to Parvez Qureshi which resulted into his death. In the said incident, Raja Sriwas and Pooja Sriwas also suffered injuries. Incident was reported to the police based upon which the aforementioned crime was registered against the applicant and five co-accused persons.

3. Learned counsel for the applicant submits that in the FIR lodged by Ranjeeta Sriwas, eyewitness of incident and wife of injured Raja Sriwas, accused Salman, Mukul, Simon, Premchand and Kartik have been named as the persons who assaulted the deceased and others. There is no mention of the name of present applicant. Even in the statements recorded under Section 161 of CrPC all the witnesses have named only five persons as the assailants and name of present applicant does not find place therein with the allegation that he also took part in the incident and assaulted the deceased and other persons. He submits that present applicant has been made accused in the crime in question only on the basis of memorandum statement of co-accused persons. He submits that the applicant has been falsely implicated in the crime and there is no material available in the case diary connecting the applicant with the offence, more so in the light of statements of eyewitnesses and contents of FIR.
4. Mr. Rathi, learned State Counsel opposes the bail application and submits that the incident took place in night and there were many assailants. However, he does not dispute the

submission made by learned counsel for the applicant that FIR as also statements of witnesses recorded under Section 161 of CrPC do not contain name of present applicant. But, he submits that the memorandum statement of co-accused persons as well as present applicant clearly reflects participation of present applicant in the offence. He further submits that on the basis of memorandum statement of applicant, iron rod & clothes were seized from his possession.

5. Adopting the submissions made by learned State Counsel, Mr. Tiwari, learned counsel for the Objector has submitted that where the number of assailants is large, it is not possible for an eyewitness or injured witness to give detail of each and every person who took part in the incident.
6. Learned State Counsel as also learned counsel for the Objector would submit that present applicant is the main conspirator, hence he is not entitled for grant of regular bail.
7. I have heard learned counsel for the parties.
8. Taking into consideration the nature of allegations, contents of FIR wherein cause of dispute manner in which incident took place, making allegations against co-accused persons and non-mention of name of present applicant either by Ranjeeta Sriwas, who lodged FIR, or injured witnesses namely Raja Sriwas & Pooja Sriwas, without commenting anything on merits of case, I am inclined to release the applicant on regular bail.
9. Accordingly, the application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal

bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;

- a) he shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
- b) he shall not, in any manner, tamper with the prosecution witnesses.
- c) If applicant is found involved in any type of offence in future, it will be open for the State to apply for cancellation of bail.

10. Certified copy as per rules.

(Parth Prateem Sahu)
Judge

roshan/-