

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 406 of 2021**

- Ashok Kumar Agariya, S/o Samar Singh Agariya, Aged About 26 Years, R/o Village Pahadgaon, Police Station- Pali, District- Korba Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer Police Station- Pali, District- Korba Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Nitesh Shrivastava, Adv.
For Respondent/State	:	Mr. Ayaz Naved, G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****23.02.2021**

1. The accused/applicant has moved this **second bail application** under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 130/2019 registered at Police Station- Pali, District- Korba, (C.G.) for the offence punishable under Section 302, 34 of IPC.
2. Earlier, the first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after examination of eye-witnesses vide order dated 14.09.2020 passed in MCRC No. 4660/2020 by this Court.
3. The prosecution story, in brief is that, complainant lodged a report stating that on 20.07.2019 at about 2:30 PM, present applicant along with other co-accused persons assaulted the deceased by stick, hand and fists. As a result of which, deceased died. Based on this, offence has been registered. Present applicant has been taken into custody on 22.07.2019.
4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in

question. He further submits that 7 eye-witnesses have been examined and out of which, 6 eye-witnesses have turned hostile. It is submitted that the applicant is in jail since 22.07.2019, there is no likelihood of his case being decided in near future, therefore, the present appellant may be released on bail.

5. On the other hand, counsel for the State opposes the bail application submitting that the mother of the deceased has categorically stated that the deceased has been assaulted by the applicant. He next submits that the offence committed by the applicant is of serious in nature and he did a very heinous crime and it is not a fit case to release him on bail.
6. I have heard learned counsel for the parties and perused the record.
7. Considering the facts and circumstances of the case, especially nature and gravity of crime in question, at this stage, I am not inclined to release him on bail.
8. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is rejected.

**Sd/-
(Rajani Dubey)
Judge**

Ruchi