

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 739 of 2021**

- Dani Nirmalkar, S/o Shatruhan Nirmalkar, aged about 22 Years, R/o Village- Thankhamhariya, Thana / Uptahsil - Thankhamhariya, Distt.- Bemetara (Chhattisgarh).

----Applicant

Versus

- The State of Chhattisgarh, Through Police Station - Thankhamhariya, Distt.- Bemetara (Chhattisgarh).

----Non-applicant

For Applicant	Shri Samir Singh, Advocate.
For State	Shri Vimlesh Bajpai, Government Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

09/03/2021

- 1) This is the First Bail Application filed under Section 439 of Code of Criminal Procedure, 1973 by the applicant for grant of bail as he is in custody since 30.10.2020 in connection with Crime No. 133/2020 registered at Police Station Thankhamhariya, District- Bemetara (C.G.) for the offence under Sections 324, 506, 353, 186, 332, 120-B, 34 of IPC.
- 2) Case of the prosecution, in brief, is that on 27/10/2020 at about 5:00 PM when complainant Vimal Kumar Sahu, Jr. Engineer in Chhattisgarh State Power Distribution Company Limited, Thankhamhariya went to Sub-Station, Khamariya, he saw Khemlal Netam & Rahul, who are employees in his office, talking with 2 unknown persons carrying club in their hands. When the complainant

was attending the call of nature, those 2 unknown persons all of a sudden assaulted on his head with bamboo stick and spade and committed *Marpeet* with him. Immediately, the complainant ran away from there and upon intervention by the other employees, the assailants fled from the spot. During investigation, it was found that co-accused Mordhwaj Sinha and the present applicant had assaulted the complainant. On their memorandum statements, the weapon of offence i.e. spade and bamboo stick were seized.

- 3) Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. He further submits that the applicant is in jail since 30.10.2020, charge sheet has already been filed, conclusion of the trial is likely to take some time and that co-accused- Mordhwaj Sinha in this case has already been granted regular bail by this Court vide order dated 12.02.2021 passed in MCRC No.173 of 2021 and, therefore, the applicant be released on bail on the ground of parity.
- 4) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 5) Heard learned counsel for the parties.
- 6) Considering the facts and circumstances of the case, the fact that the applicant, who is aged about 22 years, is the first offender having no criminal antecedent and there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel, the offence is triable by Judicial Magistrate First Class, the detention period of the applicant, charge sheet has already been filed,

the fact that co-accused in this case has already been granted regular bail by this Court and the trial is likely to take some time for disposal, without commenting anything on merits of the case, the application is **allowed**. It is directed that in the event of applicant executing a personal bond for a sum of **Rs. 1,00,000/-** with **two** sureties of Rs. 50,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- (i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- (iv) he shall not involve himself in any offence of similar nature in future.

Sd/-
Gautam Chourdiya
Judge

Akhilesh