

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 1091 of 2021**

- Sheelanand Jha, 51 years, S/o late Shri Dayanand Jha, R/o Sikandarkampu, Sheetla Colony, 12 Beegha, P.S Madhavganj, Tehsil and District Gwalior, M.P.

-----Applicant**VERSUS**

- State of Chhattisgarh through: the SHO of police station of City Kotwali, Mungeli, District Mungeli, Chhattisgarh

-----Respondent

For Applicant	: Mr. Ajay Ayachi, Advocate
For Respondent- State	: Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Shri Parth Prateem Sahu, Judge**(proceedings through video conferencing)****ORDER****05/07/2021**

1. Heard.
2. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 445/2020 registered at Police Station City Kotwali, Mungeli, District Mungeli (C.G.) for the offence punishable under Section 302, 301 and 34 IPC.
3. Case of the prosecution is, that one Subodh Kumar Jha lodged a report on 09.08.2020 to the police station City Kotwali Mungeli (Chhattisgarh) that one Haridas, who is sweeper at *Sulabh Complex*, informed him on phone that deceased Ganouri Pandit who was supervisor of *Sulabh Complex* situated near Padhav Chowk Mungeli, was lying on the floor. After sometime it has again been informed that Ganouri Pandit was dead, he suffered head injury. On the basis of complaint/ F.I.R., police started investigation. During the course of investigation, police recorded memorandum of Pradeep Katore and present applicant. On the basis of memorandum statement, Pradeep Katore and present applicant have been

arrested in the instant crime.

4. Mr. Ajay Ayachi, learned counsel for the applicant submits, that the police during the course of investigation has not seized any incriminating article from the possession of the applicant but the CCTV footage and CDR installed nearby the place of incident. It has been alleged that in the CCTV footage one person has been found roaming nearby *Sulabh Complex* in a ruthless manner, but the said person has not been identified to be present applicant by any of the witnesses. No proceeding has been drawn and available in the charge-sheet to show that the person who has been located is present applicant. He further submits that one Pradeep Katare who has been arrested in connection with the instant crime has been enlarged on bail by this Hon'ble Court in MCRC No. 9491/2020. He submits that from his possession, there was seizure of mobile phone, hammer and screwdriver, whereas no article has been seized from the possession of present applicant. He further submits that except memorandum statement, there is no material available to connect the present applicant in the instant crime and he is in jail since 07.09.2020.
5. Mr. Vimlesh Bajpai, learned Government Advocate, while opposing the submissions made by the learned counsel for the applicant, submits that during the course of investigation, police has recorded the memorandum statement of co-accused Pradeep Katare and present applicant as well. In the memorandum statement, there was admission of commission of crime by present applicant, hence, the present applicant is not entitled to grant bail.
6. I have heard learned counsel for the respective parties.
7. Specific query has been made with the learned State counsel with regard to the material available to connect the present applicant in the instant crime. He submits that as per case diary, applicant has been arrested based on the memorandum statement of Pradeep Katare and himself.

Further, police has seized CCTV footage installed at nearby the area. On specific query, he submits that there was no proceeding drawn for identifying the person found roaming near *Sulabh Complex* at the relevant time to be present applicant.

8. Taking into consideration the nature of allegation, that there is no material available to show that the present applicant travelled along with Pradeep Kataré from Gwalior to Mungeli on the date of incident and further that the person, who has been found roaming nearby the *Sulabh Complex* at the relevant period, has not been identified, without commenting anything on merits, I am inclined to allow the bail application.
9. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a personal bond in the sum of Rs.50,000/- with one local surety in the like sum to the satisfaction of the Court below 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