

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1385 of 2021**

- Mohsin Ali S/o Mohd. Hussain Aged About 26 Years R/o H. No. 02, Block 44, Bsup Colony Kathadih, P. S. Mujgahan, District Raipur Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through P. S. Mujgahan, District Raipur Chhattisgarh

---- Respondent

Present:-

Shri Lukesh Kumar Mishra, counsel for the applicant.
Shri Ravish Verma, GA for State.

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava
Order On Board

16/07/2021

Heard.

1. This is repeat bail application. Earlier bail application was dismissed as withdrawn.
2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.23/2020 registered at Police Station Mujgahan, Distt. Raipur for the offence punishable under Section 302 & 34 of the IPC. The applicant was arrested on 26-03-2020.
3. Learned counsel for the applicant would submit that even according to the allegation of the prosecution, it is said that because of some dispute, assault was given by hands and fists, which is also highly doubtful, because it has come in the subsequent statement of mother of the deceased that oral dying declaration was given to the constable. He submits that other co-accused of this case namely Rajesh Mahanand, similarly situated, has been enlarged on bail vide order dated 15-01-2021 passed by the Co-ordinate Bench of this Court in MCRC No.7657 of 2020.
4. On the other hand, learned State counsel opposes the bail application by submitting that the prosecution case that the applicant and the co-accused assaulted the deceased, who succumbed to death, is based on oral dying declaration given to the constable.

5. Taking into consideration the submission made by learned counsel for the parties, particularly taking into consideration that the prosecution case is based on oral dying declaration alleged to be given to the constable and mother of the deceased, who first examined, did not involve the applicant in the alleged commission of offence and further taking into consideration that the applicant is in jail since 26-03-2020 and trial is still not concluded and another co-accused, who is similarly situated, has been enlarged on bail vide order dated 15-01-2021 passed by the Co-ordinate Bench of this Court in MCRC No.7657 of 2020, I am inclined to enlarge the applicant on bail.

6. Accordingly, the bail application(M.Cr.C.No.1385/2021) is allowed. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one local surety for the like amount to the satisfaction of the Trial Court on the condition that he shall appear before the trial Court regularly on each and every date, unless exempted from appearance.

Certified copy as per rules.

SD/-
(Manindra Mohan Shrivastava)
Judge