

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 1054 of 2021**

- Kaleshwardas Manikpuri @ Lalu S/o Santoshdas Manikpuri, aged about 19 years, R/o Village Jaitpuri, P.S. Lalpur, Tahsil and District Mungeli, Chhattisgarh

-----Applicant**VERSUS**

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

-----Non-applicant

For Applicant	: Mr. Rajesh Kumar Jain, Advocate
For Non-applicant/ State	: Mr. B.P. Banjare, Dy. Govt. Adv.

Hon'ble Shri Parth Prateem Sahu, Judge***(proceedings through video conferencing)*****ORDER****28/07/2021**

1. 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. 602/2020 registered at Police Station City Kotwali, District Mungeli (C.G.) for the offence punishable under Sections 302, 450, 394, 307/34 & 449 of IPC.
2. Case of the prosecution is, that in the mid night of 09.10.2020, electric ceiling fan of the house of complainant stopped running as a result he woke up and saw that electric bulb of courtyard was lighting. After opening doors of room when he came out, he found two persons sitting in the courtyard of house. Seeing the complainant, one person attacked on him, caught hold of his neck due to which he became unconscious. Other person went inside the room, pressed neck of his wife due to which she died. Later, in the morning, when the complainant became conscious, he found his wife lying on the floor dead; lock of trunk was broken and amount of Rs. 5 Lakh kept

in it, which he received as sale price of his agriculture land, was missing. Thereafter, complaint was lodged in the concerned police station against the unknown persons, based on which, instant crime was registered. During the course of investigation, present applicant was arrested along with three others.

3. Mr. R.K. Jain, learned counsel for the applicant submits, that as per the statement, at the time of incident there were only two persons. From the contents of F.I.R. and the statement of complainant recorded under Section 161 of CrPC, it is apparent that complainant has not identified the accused person due to dark night. No identification parade conducted by the police to identify the applicant as accused who committed the crime. He has been arrayed as accused only on the memorandum statement of co-accused. Except the seizure of Rs. 20,000/- from his possession, no other incriminating article has been recovered. He also submits that two other co-accused persons in similarly situated crime have been enlarged on bail passed in MCRC No. 1494/2021 on 19.07.2021
4. On the other hand, Mr. B.P. Banjare, learned State counsel, opposes the submissions made by the learned counsel for the applicant and submits that based on the memorandum statement of applicant, Rs. 20,000/- cash was recovered. Commission of crime by the present applicant is admitted by him in the memorandum statement, hence, present applicant is also involved in commission of crime. However, he admits that there is no identification parade of the present applicant to identify him as one of the accused.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration the nature of allegation, the manner in which the alleged crime was committed in the dark night, the fact that

complainant has not identified accused persons, he was arrested on the basis of memorandum statements of co-accused, without commenting anything on merits, I am inclined to allow the bail application.

7. 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.25,000/- with one 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