

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1683 of 2021**

- Lakhan Bhariya, S/o Harilal Bhariya, Aged About 58 Years, R/o Village Bacharwar, Khecharwartola, Police Station Pendra Tahsil Pendra District Gaurela-Pendra Marwahi Chhattisgarh

---- Applicant (In jail)**Versus**

- State Of Chhattisgarh Through Station House Officer Police Station Pendra District Gaurela Pendra Marwahi Chhattisgarh, District : Gaurela-Pendra-Marwahi, Chhattisgarh

---- Respondent

For Applicant	:	Shri Ashok Soni, Advocate
For Respondent/State	:	Shri BP Banjare, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

09.07.2021

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No. 148 of 2020 registered at Police Station- Pendra, District Gaurela-Pendra Marwahi, Chhattisgarh for the offences punishable under Sections 302 and 201 read with Section 34 of IPC.
2. Case of the prosecution, in brief, is that 16.08.2020, deceased Lakhulal Bhariya went out of the house at about 8 pm stating to his wife that he will return back after meeting Dinesh Bhariya. When Lakhulal Bhariya did not return to his house till 10 pm, his wife, namely, Somvati along with her daughter went for search and thereafter, returned back. On the next day ie 17.08.2020 in morning at about 6 am, Ankit Rathore, president of same village informed her that her husband-Lakhulal Bhariya is lying dead in Kanainar. She went there and found her husband was lying dead with injuries on head. Merg

intimated to concerned Police Station by Somvati, wife of deceased, based upon which the instant crime was registered against unknown persons initially. During the course of investigation, Terasu Bhariya, Ramdayal Bhariya and present applicant were arrested.

3. Shri Ashok Kumar Soni, learned counsel for the applicant submits that applicant has been arrested only on the basis of memorandum statement of co-accused persons, and recovery of battle axe from possession of present applicant. Co-accused persons have stated that they took battle axe from applicant for their own protection in night. Co-accused persons have admitted their guilt in their memorandum statement. From their memorandum statement it is clear that present applicant was not present on the spot but co-accused persons have borrowed battle axe to save themselves while passing through dense forest. He submits that there is no material against present applicant to connect him with instant crime except the seizure of battle axe.

4. Shri BP Banjare, learned State counsel opposing the submissions of learned counsel for the applicant, submits that on the basis of memorandum statement of co-accused persons, battle axe was recovered from applicant, which has been used for commission of crime. There is involvement of present applicant and he is not entitled for bail.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegation, and memorandum statement of co-accused persons Terasu Bhariya and Ramdayal Bhariya recorded by the Police, where they admitted guilt and it appears that at

the time of incident, present applicant was not present on the spot, and co-accused persons borrowed battle axe from present applicant, he is in jail since 18.08.2020, without commenting anything on merits of case, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE