

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2033 of 2021**

- Rajkamal @ Bholu (Wrongly Mentioned As Bholu In First Bail Application) S/o Late Doodhnath Aged About 37 Years R/o J.M.Q. Colony, Qtr. No. 70, Vishrampur, Police Station Vishrampur, Tahsil Surajpur, District Surajpur Chattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Of Police Station Vishrampur, District Surajpur Chhattisgarh.

---- Respondent

For Applicant	:	Shri Anil Gulati, Advocate
For Respondents/ State	:	Shri Gagan Tiwari, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****26/03/2021**

1. Heard.
2. This is the Second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 97/2020 registered at Police Station- Vishrampur, Dist Surajpur (C.G.) for the offence punishable under Section 302,201 r/w 34 of the Indian Penal Code.
3. As per the prosecution case on 07.06.2020 on a dispute over distribution of some money while consuming liquor the applicant along with the co-accused assaulted one Ajay Bargah and consequently he succumbed to the injury, therefore the offence has been committed.
4. Learned counsel for the applicant submits that this is the second bail

application and in the earlier occasion, the first bail application was withdrawn with liberty to repeat the same after examination of Raju Yadav. It is submitted that Raju Yadav has been examined and he has not supported the case of the prosecution, therefore, the present applicant may be released on bail.

5. Per contra, learned State counsel opposes the argument and submits that 164 statement has been admitted by the witness and further according to the statement of Raju Yadav at least the last seen theory exists wherein the presence of applicant is established.
6. Considering the statement of Raju Yadav, the statement requires to be appreciated by the Trial Court. This Court cannot usurp the power of the trial Court if the trial is in midst, therefore, I am not inclined to release the applicant on bail.
7. Accordingly, the second bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

Goutam Bhaduri
Judge