

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2886 of 2021**

Srikant Soni @ Gunnu S/o Late Shri Durga Prasad Soni Aged About
34 Years R/o Golbazar Khowamandi, Tahsil And District - Bilaspur
District : Bilaspur, Chhattisgarh --- **Applicant**

Versus

The State of Chhattisgarh through Station House Officer, Police
Station City Kotwali, District : Bilaspur, Chhattisgarh --- **Respondent**

For the applicant	:	Mr. A.K. Prasad, Advocate.
For the Respondent	:	Mr. Gagan Tiwari, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****02.07.2021**

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 206/2018 registered at Police Station City Kotwali, District Bilaspur (C.G) for the offences punishable under Sections 351, 451, 294, 506, 323, 307, 302/34 of IPC and sections 4 & 5 of Tonhi Pratadna Act, 2005. The earlier bail application was dismissed on 10.12.2020 on merits.
2. As per the prosecution case, on 05.05.2018 he entered into the house of deceased Shatrughan Tiwari along-with other accused and assaulted him with hands and fists at about 12.40 in the night which was reported and thereafter the injured was treated in different hospital and was operated for head injury and eventually succumbed to the injury.
3. Learned counsel for the applicant submits that the assault was made by hands and fists whereas the deceased died much after 38 days of the incident and there is no nexus between the injuries sustained by the deceased and the assault made by the accused. He further submits that had there been any intention to kill, the accused would

have used the lethal weapons for committing the assault, therefore, in absence of any intention, at the most, the offence would fall under section 451, 506 & 323 of IPC and not under section 307, 302/34 of IPC. It is also submitted that the deceased is addicted to consuming narcotic substance i.e., Ganja and due to this reason, he was maintaining poor health condition and he was also suffering from TB for the last 10 years, as such, he was very weak. It is further submitted that the applicant was suffering from fever and developed complications and when simple injuries were caused, the death cannot be attributed to the assault and the deceased died due to complications developed upon his head injury. He further submits that earlier bailable offences were made out but after the death of deceased, non-bailable offence was registered. He submits that the applicant is in jail since 14.08.2020 and charge sheet has been filed, therefor, he may be enlarged on bail at this stage.

4. Per contra, learned State Counsel opposes the bail application and submits that earlier the bail application of similarly placed accused has been rejected by this Court in M.Cr.C. No. 4101/2021.
5. After considering the submissions made by learned counsel for the parties and the fact that the earlier bail application has been rejected on merits and no changing circumstances are shown after rejection of the first bail application, I am not inclined to allow this bail application. Accordingly, it rejected.

Sd/-
GOUTAM BHADURI
JUDGE