

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4063 of 2021**

- Nandkishore, S/o Daduram, Aged About 46 Years, R/o Ward No 3, Santoshinagar, Village Bhimkhoj Police Station Khallari, Tahsil Baghbahrah, District- Mahasamund Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer Mahasamund, District Mahasamund Chhattisgarh.

---- Respondent**And****MCRC No. 4099 of 2021**

- Nandkishore, S/o Daduram, Aged About 46 Years, R/o Ward No 3, Santoshinagar, Village Bhimkhoj, Police Station Khallari, Tahsil Baghbahrah, District Mahasamund Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer District Mahasamund Chhattisgarh.

---- Respondent

For Applicant : Shri Siddharth Rathod, Adv.

For Respondent/State : Shri Ashutosh Mishra, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****08.07.2021**

Proceedings through video conferencing.

1. Heard.
2. Since in the aforesaid applications, the applicant is one and same and arise from the same incident, they are being disposed of together by this common order.
3. The accused/applicant has moved this **third bail application**

under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 399/2003 and 398/2003, registered at Police Station- Mahasamund, District- Mahasamund, (C.G.) for the offences punishable under Sections 147, 148, 149, 460, 307, 302 of IPC and Sections 25 & 27 of Arms Act.

4. The first bail application of the applicant was dismissed as withdrawn on 03.03.2020.
5. The Second bail application of the applicant was dismissed as withdrawn on 16.09.2020 with liberty to revive the same after examination of material witnesses.
6. In Crime No. 399/2003, it is alleged that in the mid-night of 26.08.2003, the other accused persons including the present applicant formed an unlawful assembly, forcibly entered the house of the complainant armed with deadly weapon and assaulted and caused death of Ravi Telgu and also attempted to cause death of other victims. After lodging the FIR, the case has been registered, the charge-sheet has been filed.
7. In Crime No. 398/2003, it is alleged that on the date of incident, the accused persons along with the present applicant formed an unlawful assembly, forcibly entered the house of complainant armed with deadly weapons, assaulted and caused death of deceased Dukalu and also attempted to cause death of other victims. Charge-sheet has been filed.
8. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that co-accused namely Santoshi has been granted bail vide order dated 18.09.2019 passed in MCRC Nos. 5198/2019 and 5207/2019 and other co-accused namely Yashoda has been granted bail vide order dated 10.12.2019 passed in MCRC Nos. 6860/2019 and 7003/2019 by this Court and Seema Bai (wife of the deceased), the sole eye-witness was examined before the trial Court and she has not supported the prosecution case. The applicant is in jail since 14.08.2018, as there is no likelihood of his case being decided in

near future, therefore, the present applicant may be released on bail.

9. On the other hand, counsel for the State opposes the bail application.
10. I have heard learned counsel for the parties and perused the records.
11. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, detention period of the applicant and further considering the facts that co-accused namely Santoshi has been granted bail vide order dated 18.09.2019 passed in MCRC Nos. 5198/2019 and 5207/2019 and other co-accused namely Yashoda has been granted bail vide order dated 10.12.2019 passed in MCRC Nos. 6860/2019 and 7003/2019 by this Court and Seema Bai (wife of the deceased), the sole eye-witness was examined before the trial Court and she has not supported the prosecution case. The applicant is in jail since 14.08.2018, the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail.
12. Accordingly, the application is allowed.
13. It is directed that the applicant shall be released on bail on his executing a personal bond for a sum of Rs. 25,000/- - Rs. 25,000/- in respect of each crime number with one solvent surety for the like amount to the satisfaction of the trial Court for his appearance before the said Court as and when directed.

**Sd/-
(Rajani Dubey)
Judge**