

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 3536 of 2021

- Tameshwar Singh @ Kairu son of Dhansay @ Dhanuram, aged about 25 years, resident of Village Sonpur, Police Chowki Basdei, Police Station Surajpur, District Surajpur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House Officer, P.S. Surajpur Police Chowki Basei, District Surajpur (C.G.)

---- State/Non-applicant

For Applicant	:	Shri P.K. Patel and Shri D. Kushwaha, Advocates
For Respondent/State	:	Shri Anand Verma, Deputy Advocate General

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

20.09.2021

1. The applicant has preferred this second bail application under Section 439 of Cr.P.C. as he is in jail since 21.07.2020 in connection with Crime No. 248/2020 registered in Police Station – Surajpur, Police Chowki Basdei, District Surajpur (CG) for the offence punishable under Sections 302, 294, 323, 34 of IPC.
2. The first bail application of the applicant was dismissed as withdrawn with liberty to file a fresh application as and when occasion arises vide order dated 17.02.2021 passed in M.Cr.C. No. 223 of 2021.
3. Case of the prosecution is that on 23.06. 2020 at about 11:00 pm when Baudharam, Bhuvneshwar and Harihar were their house, at that relevant time, the present applicant entered into the house and started complaining as to why he locked up their room, upon which Baudharam denied and stated that room of present applicant was locked up by his father. Thereafter, the present applicant raising his grievance with regard to giving some piece

of agricultural land to Baljeet Singh started abusing him and tried to assault him by means of club to which Baudharam saved himself. Looking to the intention of the present applicant, Bhuvneshwar and Harihar who are grand sons of Baudharam snatched the club from the present applicant upon which the applicant lifted Baudhram and slammed him on the ground. In the said act, Baudharam suffered head injury and started bleeding, thereafter the applicant pressed his chest by his legs and thereupon co-accused Vikul Singh @ Sonu came into the scene to which the grandchildren of deceased Baudharam have asked him to intervene the incident but instead of intervening he shouted "*maaro*". After the incident, Baudharam was taken to the house of Baljeet Singh by Gharbaran on his motorcycle from where, on next day, Baljeet Singh alongwith injured Baudharam went to police station and thereafter to hospital. During the course of treatment, Baudharam died. As per the postmortem report he died on account of head injury suffered by him. Based upon the aforesaid fact, crime was registered against the present applicant and co-accused Vikul Singh @ Sonu.

4. Learned counsel for the applicant submits that the allegation against the applicant is false and fabricated, he has been falsely implicated in this case. He submits that there is no direct proof of applicant's involvement in the alleged crime and some of the prosecution witnesses who are the material witnesses have been examined and turned hostile. He also submits that applicant is in jail since 21.07.2020, charge-sheet has already been filed, due to Covid-19 pandemic, conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail. He also submits that co-accused namely Vikul Singh @ Sonu has already been granted bail by the coordinate bench of this Court vide order dated 16.12.2020 passed in M.Cr.C. No. 7202/2020.
5. On the other hand, learned counsel for the State opposes the bail application.

6. Considering the facts and circumstances of the case, particularly considering the allegation made against the present applicant, trial is in progress as out of 19 witnesses, 11 witnesses have been examined and in near future case is likely to be disposed of by the trial Court, the evidence so far recorded before the trial Court cannot be appreciated at this stage by this Court, and that case of co-accused Vikul Singh @ Sonu who has been granted regular bail by the coordinate bench of this Court is distinguishable on facts from the case of the present applicant, therefore, I am not inclined to grant bail to the present applicant.
7. Accordingly, this second bail application is dismissed. It is made clear that if trial is not concluded within a period of one year from today, the applicant shall be at liberty to repeat his prayer for grant of bail.

Sd/-

(Gautam Chourdiya)
Judge