

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4218 of 2021

Sagar Tiwari, S/o. Rajendra Tiwari, Aged About 19 Years, R/o. Railway Colony Dhumaroad, Torwa, Police Station Torwa, District Bilaspur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Torwa, District Bilaspur, Chhattisgarh

---- Respondent

For Applicant : Mrs. Indira Tripathi, Advocate

For Respondent : Mr. Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

ORDER

22.07.2021

1. 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.187/2020 registered at Police Station- Torwa, District Bilaspur, for the offence punishable under Section 302/34 of the Indian Penal Code. The first bail application was dismissed as withdrawn on 21.01.2021.
2. As per the prosecution case, on 13.06.2020 one Ajay Jana was murdered by Aayush Yadav and others and the applicant was one of them who also participated in such incident.
3. Learned counsel for the applicant would submit that the eye-witness have not supported the case of the prosecution. The statement of Manish Nanhel & Dheeraj Yadav is read out and counsel would submit that in respect of the present applicant Sagar no averments have been made. She further submits that all the witnesses have turned hostile and even not identified by the present applicant; therefore, the applicant may be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of Manish Nanheth. It is stated that Aayush Yadav came along with 3-4 boys and thereafter assaulted Ajay Jana, the deceased. One statement of Dheeraj Yadav under Section 161 appears to have been marked as Ex.P-5. The I.O. is still remains to be examined in this case, therefore, what would be the evidentiary value of Ex.P-5, it is required to be tested by the trial Court. In as much as the statement of Manish Nanheth shows that along with Aayush Yadav, there were 3-4 boys. While considering the bail, at this stage, I am not inclined to take up the trial to appreciate the evidence. It is for the trial Court to evaluate the same after the I.O. is examined. Considering the same, I am not inclined to release the applicant on bail. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge