

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5225 of 2021**

- Sameer Das Mahant S/o Chaindas Mahant, Aged About 21 Years, R/o Village Jamraga, Police Station Kapu, Tahsil Dharamjaigarh District Raigarh Chhattisgarh
---- **Applicant**

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kapu, Tahsil Dharamjaigarh District Raigarh Chhattisgarh
---- **Respondent**

For Applicant	: Shri Abhishek Saraf, Advocate
For Respondent/State	: Shri Sudeep Verma, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**25.10.2021**

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No.30 of 2021 registered at Police Station- Kapu, District- Raigarh, Chhattisgarh for the offences punishable under Sections 302, 201, and 34 of IPC.
2. Case of the prosecution, in brief, is that Kiran Lanja lodged missing report to concerned Police Station on 09.03.2021 stating that his brother, Lohar Lanja (deceased) is missing since 28.01.2021. Based upon missing report lodged by brother of deceased, Police started investigation and during the course of investigation, they recovered one buried body in boundary of agriculture field of Pratap Singh Rathiya, co-accused. Police after recovery of buried body, during further investigation, recorded memorandum statement of co-accused persons Pratap Singh Rathiya, Ramdas Mahant, and Vikram Das. Based upon memorandum statement of Pratap Singh Rathiya, present applicant was arrested in instant crime.
3. Shri Abhishek Saraf, learned counsel for the applicant submits that applicant was arrested based upon memorandum statement of one of co-

accused Pratap Singh Rathiya, which is 1st memorandum statement recorded by the Police. He submits that in the memorandum statement, involvement of only three persons ie Pratap Singh Rathiya, Ram Das Mahant and Vikram Das, is mentioned. They visited Raigarh in four wheeler and while returning, they committed crime. Allegation against present applicant is only that, he helped in burying dead body of Lohar Lanja and that too in memorandum statement of co-accused, which is not admissible evidence. Applicant has not committed any offence. Applicant is in jail since 16.03.2021, hence, he may be enlarged on bail.

4. Shri Sudeep Verma, learned State counsel opposing the submissions of learned counsel for the applicant, read over memorandum statements of accused persons, including Pratap Singh Rathiya. However, he does not dispute submission made by learned counsel for the applicant that in memorandum statement of Pratap Singh Rathiya was recorded first, while other persons' memorandum statements were recorded later on.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations levelled against present applicant, memorandum statement of Pratap Singh Rathiya, and the fact that applicant is in jail since 16.03.2021, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond

in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

1. Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
2. Applicant shall not in any manner, tamper with the prosecution witnesses.
3. If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma