

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5751 of 2021

1. Umesh Kumar Vishwakarma S/o Kishore Kumar Vishwakarma, Aged About 31 Years, R/o Village Jaitpuri, Police Station Lalpur, District Mungeli (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through SHO Of Police Station Of City Kotwali, Mungeli, District Mungeli (C.G.).

---- Non-Applicant

For Applicant	: Mr. Pallav Mishra, Advocate.
For Non-Applicant/State	: Mr. Anand Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

27/08/2021

- 1) The matter is heard through Video Conferencing.
- 2) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 16/10/2020 in connection with Crime No. 602/2020 registered at Police Station City Kotwali District Mungeli (C.G.) for the offence punishable under Sections 450, 302, 394, 449, 307, 34 of Indian Penal Code.
- 3) As per the prosecution case on 09/10/2020 in the night when the complainant Laxman Sahu was sleeping alongwith his wife in his house, at around 01:00 AM some unknown persons entered their house and one of them caught hold of the complainant and pressed his neck as a result of which he fell unconscious. The other co-accused pressed the neck of the complainant's wife Khorbahrin Bai. When the complainant regained consciousness, he found his wife lying dead and Rs. 5 Lakh kept in the box were missing. On report being lodged to the above effect, the

aforesaid offences have been registered against the accused persons.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He submits that co-accused Tekram Yadav & Anil Kumar (in MCRC No. 1494/2021) and Kaleshwardas Manikpuri @ Lalu (In MCRC No. 1054/2021) have already been granted regular bail by co-ordinate Bench of this Court vide order dated 19/07/2021 and 28/07/2021 respectively. He further submits that the applicant has no criminal antecedents and there is no apprehension of the applicant tampering with the evidence or absconding. He lastly submits that charge sheet has been filed, the applicant is in jail since 16/10/2020 and trial is likely to take some time for its disposal. Therefore, the applicant be released on bail.
- 5) On the other hand, learned counsel for the State opposes the bail application. However, he submits that the applicant has no criminal antecedents.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, the fact that no test identification parade was conducted for identifying the accused as assailant, in particular the fact that **three co-accused** have already been released on bail by the Co-ordinate Bench of this Court, the applicant in jail since 16/10/2020 who is 31 years old, charge sheet has already been filed, the fact that the applicant has no criminal antecedents and there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel, and that conclusion of trial may take some time due to COVID-19 Pandemic, the application is **allowed**. It is directed that in the event of the applicant executing a personal **bond** for a sum of **Rs. 1,00,000/-** with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on the following conditions:-

- i. he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- ii. he shall not act in any manner which will be prejudicial to fair and expeditious trial,
- iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,
- iv. he shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
- v. he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant