

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 6080 of 2021**

- Sitambar Rajwade S/o Late Ramdayal aged about 36 Years R/o Village- Kumdabasti, Police Station- Vishrampur, Tahsil and District- Surajpur, Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh through: The Station House Officer, Police Station- Vishrampur, District- Surajpur Chhattisgarh.

-----Non-applicant

For Applicant	: Mr. Anil Gulati, Advocate.
For Non-applicant	: Mr. Sudeep Verma, Dy. Govt. Adv.

SB: Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****27/10/2021**

1. Applicant has filed this application under Section 439 of CrPC for grant of regular bail as he has been arrested in connection with Crime No. 77/2021 registered at Police Station Vishrampur, District Surajpur (C.G.) for offence punishable under Section 302, 201 of IPC.
2. As per case of prosecution, on 12.04.2021, in the morning, mother of applicant was found lying dead on the ground in her house. The merg was reported by the applicant to the concerned police station. Based on the merg enquiry, FIR was registered against unknown person. During the course of investigation, based on the memorandum statement of applicant, he was arrested in the aforementioned crime.
3. Mr. Anil Gulati, learned counsel for the applicant submits that applicant along with his brother Shyamlal Rajwade is residing in the house which is situated inside the village and their mother (deceased) was residing separately in another house constructed

little far from old house. On 11.04.2021, when applicant went to serve food to his mother, he found that she was consuming liquor and after leaving the food inside the house he returned back. On the next morning applicant received information of the incident, applicant who went to police station and got registered the merg. There is no evidence of any nature to connect applicant in the instant crime except the memorandum statement recorded by the police which is not admissible in the evidence. Applicant is in jail since 15.04.2021, hence, he may be enlarged on bail.

4. Mr. Sudeep Verma, learned State counsel, while opposing the submission made by learned counsel for the applicant, submits, that in the memorandum statement applicant has admitted his guilt and based on his memorandum statement one towel has been recovered at his instance which was used for commission of crime, hence, there is involvement of applicant in commission of crime. However, on putting specific query with regard to place of resident of applicant and his deceased mother, upon reading the statement of Shyamlal Rajwade, brother of deceased, learned counsel would submit that as per statement applicant and his brother is residing separately in the house situated inside the village and their mother was residing separately alone in the other house which is situated outside the dense residential area of village.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration, nature of allegations, facts and circumstances of the case, the fact that there is no eye-witness to the incident, deceased was residing separately alone in another house which is little far from the place of resident of applicant as appearing from the statement recorded under Section 161 of CrPC of Shyamlal

Rajwade who is brother of applicant, without commenting anything on merits, I am inclined to allow the bail application.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Court on the conditions that-

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

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge