

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6361 of 2020**

Rajkumar Bargah @ Jhatku, S/o. Kalam Sai, Aged About 22 Years, R/o. Village Baskar, Tahsil- Bhaiyathan, P.S. Jhilmili, Distt. Surajpur (Chhattisgarh)

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Incharge, P.S.- Jhilmili, District - Surajpur (Chhattisgarh)

---- Respondent

For Applicant : Mr. Bhupendra Singh, Advocate

For Respondent/State : Ms. Richa Shukla, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20.01.2021

1. This is the First Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 14.05.2019 in connection with Crime No.57/2019 registered at Police Station- Jhilmili, District Surajpur for the offence punishable under Sections 147, 148, 149, 302 of I.P.C.
2. As per the prosecution case, on 21.03.2019 when wife of the deceased went to fetch water from the Hand-pump and while she was coming back some comment was made by the applicant and other co-accused, which was objected and thereafter when she came back to house, it was informed to the husband Vijay, the deceased. Subsequently, some altercation took place in between the deceased Vijay and accused persons and thereafter he was assaulted by hand & fist and club & stone. Subsequently, he succumbed to the injuries.
3. Learned counsel for the applicant submits that in any case the altercation would show that the case under Section 302 of I.P.C. is not made out. He would further submit that the other co-accused Biharilal Singh has been

enlarged on bail by the coordinate Bench, therefore, on the ground of parity the present applicant may also be released on bail.

4. Per contra, learned State counsel opposes the argument and refer to the statement of Sonkunwar, the eye-witness and submits that the applicant may not be released on bail.
5. Perused the statement of Sonkunwar. Sonkunwar appears to be the eye-witness. In the statement of Sonkunwar, categorical statement has been made that the present applicant Jhatku @ Rajkumar Bargah along with others was also a party to the assault and after the assault the deceased died on 23.03.2019. The post mortem report shows that the deceased died due to severe injuries to the vital organs. Considering the fact when the offence under Section 147, 148 & 149 along with 302 of I.P.C. is clamped, at this stage of bail, it cannot be held whether case under Section 302 is made out or not. This fact is required to be appreciated after evidence. Accordingly, considering the statement of the eye-witness, I am not inclined to release the applicant on bail, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge