

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6480 of 2021**

- Munna @ Abdul Safique S/o Shri Late Abdal Aged About 20 Years R/o Jhalmala, Police Station Seepat, District Bilaspur, Chhattisgarh

---- Applicnat (In jail)**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Simga, District Baloda Bazar Bhatapara, Chhattisgarh

---- Respondent

For Applicant	: Shri RR Baghel, Advocate
For Respondent/State	: Shri Vimlesh Bajpai, GA

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****17.12.2021**

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.398 of 2008 registered at Police Station Simga, District- Baloda Bazar, Bhatapara, Chhattisgarh for the offence punishable under Sections 302, 397, 411 and 34 of the IPC.

2. Case of the prosecution, in brief, is that, Santosh, who is driver of Truck bearing No.CG04 ZC-0657, along with Cleaner Deepak, after loading Iron bars at Belgaon, proceeded to Bankimongra. On the way, applicant along with other co-accused persons, by name, Sarkar Ali, Hanif Khan and Munna @ Abdul Batour boarded the Truck as passengers and after travelling for some distance, they killed Santosh and Deepak by putting rope upon their neck. They sold 7 bundles of iron bars to one scrap purchaser, Shake Mohammed at village Vishrampur and also looted Rs.10,000/-, and mobile from deceased Santoish (Driver of vehicle). Based on memorandum statement of Sarkar Ali and Hanif

Khan, property looted in Truck was seized and applicant was implicated in the crime. Charge-sheet has been filed against two co-accused showing applicant absconding. Applicant surrendered before trial Court on 12.03.2021 and since then, he is in custody. Bail application for his release was dismissed by impugned order.

3. Shri RR Baghel, learned counsel for the applicant would submit that applicant has been falsely implicated in the crime. He was not in the village on the date of incident, and went outside of his village for earning his livelihood. Prior to March, 2021 applicant was not aware of his involvement in any of crime as alleged. He has been implicated only on basis of memorandum statement of co-accused persons Haneef Khan and Sarkar Ali @ Dilawar Ali. Co-accused persons after conclusion of trial, have been convicted in Sessions Trial No.18 of 2019, against which they preferred Criminal Appeal before this Court bearing No. 545 and 717 of 2012 by Haneef Khan and Sarkar Ali @ Dilawar Ali respectively. Both appeals were decided on 17.11.2015 and judgment of conviction passed by trial Court was set aside. They were acquitted from the charges. Copy of judgment is placed before the Court.

4. Shri Vimlesh Bajpai, learned State counsel opposing the submissions of learned counsel for the applicant, submits that applicant has been specifically named by two co-accused persons in their memorandum statement and on that basis, applicant is also implicated in crime. He also admits that charge-sheet has been submitted before trial court. Since applicant is absconding, trial court has concluded trial against two co-accused persons, whereby they were convicted. He submits that applicant is not entitled for bail.

5. I have heard learned counsel for the parties.

6. Taking into consideration facts and circumstances of the case nature of allegations, submission of learned counsel for the applicant that applicant has been made accused on basis of memorandum statement of co-accused persons and both of them were tried in Sessions Trial-18 of 2019, in which they were convicted, in appeal preferred by them before High Court, judgment of conviction has been set aside and they were acquitted vide judgment dated 17.11.2015 in CRA-545 and 717 of 2012, without commenting anything on merits of the case, I am inclined to enlarge the applicant on regular 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:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) 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