

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7095 of 2020

1. Lochan Sonkar S/o Shri Kallu Sonkar, Aged About 19 Years, R/o Village Aamapara, Rajim, District Gariaband (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through Police Station Rajim, District Gariaband (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Pragalbha Sharma, Advocate.
For Non-Applicant/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

22/06/2021

- 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 17/07/2020 in connection with Crime No. 130/2020 registered at Police Station Rajim, District Gariaband (C.G.) for the offence punishable under Section 302 read with Section 34 of Indian Penal Code.
- 3) Case of the prosecution, in brief, is that Prakash Das Manikpuri Ward Boy in C.H.C. Rajim lodged merg intimation at Police Station Rajim on 10/07/2020 against unknown person regarding death of Mohan Vishwakarma. During investigation it was revealed that on the date of incident i.e. 09/07/2020 the accused applicant and other co-accused persons had a quarrel with the deceased where they assaulted him with *batta*, stone, hands and fists as a result of which he died.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He submits that in fact the dispute between the complainant party and the accused occurred over parking of vehicle by one Kamal Sonwani in front of shop of the applicant and during this quarrel the deceased accidentally fell on the pieces of bottle and suffered injuries. He submits that the applicant has been arrested on 17/07/2020, charge sheet has been filed 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 respondent/State opposes the bail application.
- 6) Heard learned counsel for the parties and perused the case dairy.
- 7) As per case dairy statement of Shiv Kumar Vishwakarma, younger brother of the deceased and Vijay Verma, a Guard in the Foreign Liquor Shop, Rajim, on the date of incident i.e. 09/07/2020 Shiv Kumar Vishwakarma, deceased Mohan Vishwakarma and Kamal Sonwani consumed liquor and thereafter went to buy fish. As Kamal Sonwani had parked his vehicle in front of shop of the fish seller i.e. the applicant Lochan Sonkar, the applicant objected to it on which quarrel took place between the applicant and the complainant party and in this process the applicant assaulted the deceased with a club. The dispute was pacified by the people present there. Thereafter, at about 8 PM co-accused Suraj Sahu and Dharmendra Stnami came near the liquor shop and assaulted the deceased and his brother Shiv Kumar with hands, fists, a wooden log and stone. It has also been stated by these witnesses that during quarrel the deceased was pushed as a result of which he fell on the broken pieces of bottle and sustained injuries near his left ear and blood started oozing. On the next date i.e. 10/07/2020 theses witnesses came to know that Mohan Kumar Vishwakarma has

been murdered.

Considering the facts and circumstances of the case, the nature of dispute giving rise to the incident, the allegation made against the present applicant, the statement of eye witnesses Shiv Kumar Vishwakarma, Kamal Sonwani and Vijay Kumar which reveal that no fatal injury was caused by the applicant to the deceased, as per postmortem report the cause of death is hemorrhagic shock due to excessive blood loss, the detention period of the applicant who is 19 years old, charge sheet has already been filed, the fact that 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/- 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, and
- 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