

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 6831 of 2021

Bhagwanta Prasad Mandle S/o Meghuram Mandle Aged About 55 Years
R/o Village Gogiya, Police Station Bhatapara (Gramin), District
Balodabazar-Bhatapara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Of Police Station Bhatapara
(Gramin), District Balodabazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Shivali Dubey, Advocate
For Non-applicant	:	Mr. Alok Nigam, Govt. Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

20/12/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.234/2021 registered at Police Station -Bhatapara (Gramin) District- Balodabazar-Bhatapara (CG)) for the offence punishable under Sections 302, 201, 120-B, 109 of IPC.
2. Case of prosecution is that on 28.6.2021 in between 10:00 am to 3:00 pm, co-accused Suresh Diwakar killed Sachin, child aged about 5 years by throttling and thrown dead body in *badi* (kitchen garden) of one Ashwani Manhare. Murder of Sachin was done at the instance of applicant and one Subedas Mahilang. After

commission of murder, co-accused Suresh has realized that he has committed wrong and was going to police station to surrender himself. On the way, he met with Mohan Goyal and Ramkhilawan when they were sitting outside of the house of Mohan. Looking to hue and cry of co-accused Suresh, they asked reason upon which he narrated fact of commission of murder of Sachin at the instance of applicant and another co-accused Subedas Mahilang for money and thereafter he went to police station. His memorandum statement was recorded. FIR was lodged by Kanhaiya Lal Diwakar, grandfather of deceased against unknown person. Based on memorandum statement, applicant was also arrested in the aforementioned crime on 29.6.2021.

3. Learned counsel for the applicant would submit that applicant has been falsely implicated in crime. She submits that during course of *dehati nalishi* or registration of FIR there is no mention of name of applicant. In fact FIR is registered against unknown person. Hence, the case of prosecution that co-accuse Suresh informed other villagers Mohan Goyal and Rakhilawan is suspicious. She further pointed out that though memorandum statement of co-accused Suresh was recorded on the same day of incident i.e. 28.6.2021, he was sent to medical examination on the same day, but his arrest has been shown on 29.6.2021. The allegation levelled against applicant is highly improbable and suspicious, hence applicant may be released on regular bail.
4. Learned counsel for the State opposes the submission of learned counsel for the applicant and would submit that there is specific

allegation against applicant and co-accused Subedas that it is these accused persons who have asked Suresh to kill Sachin due to previous enmity with Kanhaiya Diwakar. Co-accused Suresh has confessed his guilt before Mohan Goyal and Ramkhilawan. Statement of Ramkhilawan is also recorded in which he categorically stated that co-accused Suresh has admitted his guilt and also narrated story as to how he committed offence where it has come that it is the applicant and other co-accused who have engaged Suresh for murdering the grand child of Kanhaiya on account of previous animosity. In the memorandum statement of Suresh also he has specifically named the applicant, hence, he is not entitled for grant of bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of case, nature of allegations, memorandum statement of co-accused Suresh as well as statement of Ramkhilawan recorded under Section 161 of Cr.P.C. stating himself to be witness to confessional statement made by co-accused Suresh, I do not find present to be a fit case for grant of bail to applicant.
7. Application is accordingly rejected.

Sd/-
(Parth Prateem Sahu)
Judge