

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6409 of 2021

1. Golu Nishad @ Mahendra Nishad S/o Narayan Nishad, Aged About 20 Years, R/o Lingiyadih, Police Station Sarkanda, District Bilaspur (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police of Police Station Sarkanda, District Bilaspur (C.G.).

---- Non-Applicant

For Applicant	: Mr. Achyut Tiwari, Advocate.
For Non-Applicant/State	: Mr. Anand Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

22/09/2021

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 11/06/2021 in connection with Crime No. 845/2019 registered at Police Station Sarkanda, District Bilaspur (C.G.) for the offence punishable under Sections 294, 506-II, 307, 302, 323 read with Section 34 of Indian Penal Code.
- 2) Case of the prosecution, in brief, is that on 16.09.2019 at about 08.30 PM near Chhath Ghat when the complainant party were going for 'Lord Ganesha Visharjan', dispute between the parties arose for not giving side and thereafter, the present applicant alongwith co-accused persons abused the complainant party filthily, threatened them, assaulted them with club & sword. As a result of which the complainants/victims sustained injuries and the deceased Rinku Gupta who was assaulted with sword & club on vital part head, sustained serious injuries and died during the course of treatment. On report being lodged to the above effect, the aforesaid offences have been registered against the accused

persons.

- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. Learned counsel for the applicant further submits that main accused in this case is Montu Yadav @ Satish Yadav, who assaulted the deceased with sword, the common bail application of accused Montu Yadav @ Satish Yadav, Mohan Yadav Alias Prahlad Yadav & Kaushal Yadav, has already been allowed by the co-ordinate Bench of this Court vide order dated 02.06.2021 in MCRC No. 975/2021. The other co-accused persons namely Raja Mende @ Rishabh Mende & Somu Sonkar @ Ankit Gole have already been granted regular bail by the co-ordinate Bench of this Court vide order dated 25.02.2021 & 02.06.2021 in MCRC Nos. 331 and 2512 of 2021. He submits that co-accused Durgesh @ Dhummu Sonkhare (in MCRC No. 4863/2021), Krishna Das (in MCRC No. 4901/2021) and Vishal Gole (in MCRC No. 5021/2021) have already been granted regular bail by this Court vide order dated 05/08/2021. The victims/eye witnesses namely Chandani, Arti and Santosh Rao have turned hostile. There is no specific allegations against the present applicant. He further submits that there is no apprehension of the applicant tampering with the evidence or absconding. He lastly submits that charge sheet has been filed, the applicant is in jail since 11/06/2021 and conclusion of trial is likely to take some time for its disposal. Therefore, the applicant be released on bail on ground of parity.
- 4) On the other hand, learned counsel for the State opposes the bail application. He submits that the applicant is involved in the alleged commission of offence, caused death of deceased Rinku Gupta and the accused persons were arrested after two years from the date of incident. Therefore, he is not entitled for grant of bail.
- 5) Heard learned counsel for the parties.
- 6) Considering the facts and circumstances of the case, the

allegation made against the present applicant, the injuries sustained by the victims/complainants, the co-accused persons including the main accused namely Montu Yadav @ Satish Yadav, Mohan Yadav Alias Prahlad Yadav, Kaushal Yadav, Raja Mende @ Rishabh Mende, Somu Sonkar @ Ankit Gole, Durgesh @ Dhummu Sonkhare, Krishna Das and Vishal Gole have already been granted regular bail by the Co-ordinate Bench and this Court, the eye witnesses/complainants have turned hostile and stated nothing against the accused persons, it is true that the present applicant was absconded but looking to the fact that main accused has been released on regular bail, the applicant in jail since 11/06/2021 who is 20 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/- each 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,
- 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