

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 6767 of 2021

- Phekan Bhuiya S/o Dayashankar Bhuiya Aged 30 years, R/o Vijaynagar Kenvat para Police Chowki Vijaynagar P.S. Ramanujganj District Balrampur Ramanujganj (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House Officer, P.S. Ramanujganj, District Balrampur Ramanujganj (C.G.)

---- State/Non-Applicant

For Applicant	:	Shri Nishi Kant Sinha, Advocate
For Non-Applicant/State	:	Shri Adil Minhaz, Deputy Advocate General

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

29.09.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 25.08.2020 in connection with Crime No. 143/2020 registered in Police Station Ramnujganj, District Balrampur Ramanujganj (C.G.), for the offence punishable under Sections 302, 201 read with Section 34 of IPC.
2. Case of the prosecution, in brief, is that on 24.07.2020 at about 07:00 am dead body of Pawan Kashyap was found floating in the well of Raj Kumar Gupta. Co-accused Deepak Kashyap had lodged a merg intimation, on the basis of which the police started investigation and recorded statements of the witnesses namely Rajesh Kashyap, Archna, Ibrahim Anasari, Mumtaj Ansari, Raffiquiddin Ansari and Pratima, on the basis of which offence under Section 302, 204 read with Section 34 of the IPC was registered. During course of investigation, on suspicion Jadish Bhuiya (another co-accused) was taken into custody, memorandum statement of Jagdish Bhuiya was recorded. Based on the memorandum statement, present applicant alongwith co-accused Deepak Kashyap and Radharam have been arrested.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, there is no likelihood of the applicant tampering with the prosecution evidence or absconding, he is in jail since 25.08.2020 and trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court. He also submits that co-accused namely Deepak Kashyap, Jagdish Ram Bhuiya and Radha Ram Bhuiya have already been granted regular bail by the coordinate benches of this Court vide orders dated 03.03.2021 & 22.07.2021 passed in M.Cr.C. No. 591 of 2021 & M.Cr.C. No. 2492 of 2021.
4. On the other hand, learned counsel for the Non-Applicant/State opposes the bail application.
5. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, considering the fact that only on the basis of the last seen theory of Rajesh Kashyap, the applicant and other co-accused persons have been inculpated and also taking into that on the basis of the memorandum statement of co-accused Jagdish, the applicant has been arrested and has not been made the part of the charge-sheet, the detention period of the applicant who is 30 years old, the fact that there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and conclusion of trial may take some time, further that the co-accused persons have already been granted regular bail by coordinate benches of this Court, without commenting anything on merits of the case, the bail application is allowed.
6. It is directed that in the event of applicant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail, on 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/her 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 not involve himself in any offence of similar nature in future.

7. 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 nature of offence.

Sd/-
(Gautam Chourdiya)
Judge

vatti