

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 7242 of 2021**

- Prakash Tiwari @ Mallu Tiwari S/o Kanhaiya Lal aged about 32 Years R/o Bazarpara, Bamhanidih, Police Station Bamhanidih, District Janjgir Champa Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh Through The Station House Officer, Police Station Bamhanidih, District Janjgir Champa Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Punit Ruparel, Advocate
For Non-applicant	: Mr. Alok Nigam, Govt. Adv.

Single Bench: Hon'ble Shri Parth Prateem Sahu, Judge**ORDER****15/12/2021**

1. Learned counsel for applicant submits that this is **Third bail application** under Section 439 of CrPC. Applicant has filed this application for grant of bail as he has been arrested in crime number 42/2020 registered at Police station Bamhanidih, District Janjgir-Champa, Chhattisgarh for offence punishable under Section 302 of IPC. Earlier, first bail application and Second bail application were dismissed as withdrawn vide orders dated 04.03.2021 & 27.08.2021 reserving liberty to revive the prayer at appropriate stage.
2. Learned counsel for applicant submits that this application has been filed on the ground that all the enlisted witnesses have been examined and none of the witnesses have supported the case of prosecution. In support of his contentions, he pointed out that the eye-witness Ravidas who is complainant and brother of deceased was examined, he has not supported the case of

prosecution. As many as 8 prosecution witnesses have been examined and they have not supported the case of prosecution and they were declared as hostile, hence, applicant may be enlarged on bail.

3. Mr. Alok Nigam, learned State counsel submits that the offence alleged against applicant is under Section 302 of IPC, the witnesses who have been examined before the trial Court have stated that there was some dispute between deceased and applicant. There are other eye-witnesses enlisted in the charge-sheet who are Rajendra, Parmeshwar Chouhan, Anil Mahant. Sonu and Suraj are also important witnesses who are yet to be examined. Aforementioned witnesses are material witnesses, hence, it cannot be said that all the witnesses have not supported the case of prosecution. It is not the case of applicant that these witnesses have been given up by prosecution.
4. I have heard learned counsel for respective parties.
5. Taking into consideration, submissions of learned counsel for the parties, nature of allegations and further that material witnesses are yet to be examined who in their statement under Section 161 of CrPC stated that they have witnessed the incident, amongst the material witnesses three of them are the eye-witnesses who are yet to be examined, I do not find it a fit case to allow this third application for grant of bail.
6. In view of above, third application for grant of bail stands rejected.

Sd/-
(Parth Prateem Sahu)
 Judge