

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7432 of 2021

- Jashpal Singh Kanwar, S/o Chamara Singh Kanwar, Aged About 30 Years R/o Village Tikrapara Telsara, Thana Bankimongra, Tahsil Katghora District Korba Chhattisgarh

---- Applicant (In jail)

Versus

- State Of Chhattisgarh Through Police Station Bankimongra, District Korba Chhattisgarh

---- Respondent

For Applicant	: Shri Vikas Kumar Pandey, Advocate
For Respondent/State	: Shri Roshan Dubey, PL

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

15.12.2021

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No.117 of 2021 registered at Police Station Bankimongra, District- Korba, Chhattisgarh for the offence punishable under Sections 294, 323, 506 and 302 of the IPC.

2. Case of the prosecution, in brief, is that, on 04.07.2021 at about 5 pm, dispute took place between deceased and applicant on the issue of drainage of water in front of house of deceased. Applicant assaulted deceased by means of club on his head. Incident was immediately reported to concerned Police Station by wife of deceased, upon which, initially crime was registered for offences under Sections 323, 294 and 506 of the IPC. Deceased succumbed to injury on the same day at 7.15 pm in hospital during his treatment. Merg was reported to concerned Police Station and thereafter, body was sent for post-mortem. Based on post-mortem report, applicant was arrested in aforementioned crime on 05.07.2021.

3. Shri Vikas Pandey, learned counsel for the applicant would submit that applicant has not committed any offence as alleged against him. Dispute arose on a trivial issue of drainage in front of the house of deceased. It is the deceased, who was aggressor, hence applicant may be enlarged on bail. He further submits that as per post-mortem report, deceased suffered only one head injury, hence offence under Section 302 of IPC could not be attracted.

4. Shri Roshan Dubey, learned State counsel opposing the submissions of learned counsel for the applicant, submits that wife of deceased/complainant is witness to the incident. Applicant has caused injury by means of club on the head of deceased. As per post-mortem report, death was due to head injury suffered by the deceased in incident. Hence, *prima facie* there is involvement of applicant in aforementioned crime.

5. I have heard learned counsel for the parties.

6. Taking into consideration facts and circumstances of the case, nature of allegations, statement of eye-witness, MLC report as well as post-mortem report, I do not find it to be a fit case to enlarge applicant on bail. Accordingly, bail application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE