

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8793 of 2020**

Lakshman Bhaskar S/o Sonaram Bhaskar, Aged About 35 Years, Caste Madiya R/o Patelpara Molasnar, Police Station Bhansi District South Bastar Dantewada Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Bhansi, District Dantewada Chhattisgarh.

---- Non-applicant

For Applicant : Shri Awadh Tripathi, Advocate

For Non-applicant/State : Shri Alok Nigam, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****22.03.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 17.10.2019 in connection with Crime No.17 of 2019 registered at Police Station Bhansi, District Dantewada, Chhattisgarh for commission of offence punishable under Section 302 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 30.09.2019 at about 10.00 P.M. present applicant went along with his wife (since deceased Laxmi Bhaskar) to the house of Chandru/Chamaru Ram Bhaskar along with bottle of liquor. After knocking the door of house of Chandru/Chamaru Ram Bhaskar, present applicant said to him that he has brought liquor and asked him to bring *Pattal*. Thereafter, present applicant, deceased Laxmi Bhaskar and

Chandru/Chamaru Ram Bhaskar consumed liquor. When present applicant stood up to return back to his house, asked the deceased to come along with him to which she refused stating that she will not go as she is in intoxicated condition. Due to this, present applicant became angry and assaulted her by means of club which is lying nearby and thereafter ran away. Chandru/Chamaru Ram Bhaskar after putting cloth over her, went to sleep. In the morning, when she did not respond, the FIR was lodged by Chandru/Chamaru Ram Bhaskar. Based upon which, offence under Section 302 of Indian Penal Code was registered against the present applicant.

3. Shri Awadh Tripathi, learned counsel for the applicant submits that present applicant has not committed any offence and he has been falsely implicated in the case. After consumption of liquor, present applicant went to his house and in the morning, his wife was found lying dead. He further submits that out of the 12 listed witnesses in the charge-sheet, five witnesses have already been examined including the alleged eyewitness Chandru/Chamaru Ram Bhaskar, who has not supported the case of the prosecution. He also submits that except Chandru/Chamaru Ram Bhaskar, there is no other eyewitness listed in the charge-sheet. Applicant is in jail since 17.10.2019, therefore, applicant be enlarged on bail.
4. On the other hand, Shri Alok Nigam, learned State Counsel opposes the prayer for grant of bail and submits that Chandru/Chamaru Ram Bhaskar has specifically made allegation of assault by the present applicant upon his wife. He is eyewitness

who has consumed liquor along with present applicant and his wife. He further submits that as many as five witnesses have already been examined before the Trial Court and present applicant is not entitled for grant of bail at this stage.

5. I have heard learned counsel for the parties.
6. As per the submission made by learned counsel for the applicant, there is only one eyewitness i.e. Chandru/Chamaru Ram Bhaskar who has consumed liquor along with the present applicant and his wife and lodged the First Information Report, he is also witness to the seizure. Chandru/Chamaru Ram Bhaskar has been examined before the Trial Court as PW-1, Chhanu Bhaskar, father of Chandru/Chamaru Ram Bhaskar as PW-2, Dhanesh Kumar Bhaskar as PW-3, Pradeep Kumar Bisen as PW-4 and Satendra Bhaskar as PW-5.
7. Taking into consideration the facts and circumstances of the case, nature of allegation levelled against the present applicant and material available in the case diary and documents placed along with the application, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted

from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

**Sd/-
(Parth Prateem Sahu)
Judge**

Yogesh