

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 7557 of 2021

Vikas Gond S/o Late Jogeshwar Gond, Aged About 23 Years R/o Near Bhagwart Kirana Stores, Brahmadaai Para, P.S. Khamtarai, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through Khamtarai, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

For Applicant : Shri Devershi Thakur, Advocate

For Non-applicant : Shri Dinesh Tiwari, Dy. Govt. Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order on Board

30/11/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.40/2021 registered at Police Station- Khamtarai, Raipur (C.G.) for the offence punishable under Sections 302, 34 of IPC.
2. Case of the prosecution is that on 17.1.2021, when co-accused Omprakash @ Ponchi saw Nikita talking with Sahil, he gave 2-3 slaps to Nikita. After some time, Sahil came to Omprakash and assaulted him. Thereafter, Omprakash along with applicant returned back stating that he will see Sahil. In the night when

Nikita went to return back the mobile and key of motorcycle to Sahil, she saw Sahil lying on the floor suffered with injury and bleeding. She made report to the concerned police station in which she also raised suspicion of commission of crime by co-accused Omprakash and applicant. Based on report, applicant and other co-accused were interrogated and memorandum statement of applicant was also recorded. Based on the memorandum statement, he was arrested in the aforementioned crime.

3. Shri Dvershi Thakur, learned counsel appearing for the applicant would submit that there is no eyewitness to the incident. Applicant cannot be made accused based on the memorandum recorded under Section 27 of the Indian Evidence Act. It cannot be used to convict the applicant. Hence, applicant may be enlarged on bail.
4. Shri Dinesh Tiwari, learned counsel appearing for the State opposes the prayer made by learned counsel for the applicant and submits that just prior to the incident, there was fight between Omprakash and Sahil and at that time, applicant was also present there. After giving assault by Sahil to Omprakash, Omprakash returned back along with applicant. In the memorandum statement of the applicant, he specifically stated that he provided knife to the co-accused by which co-accused has given multiple stab injuries, due to which, Sahil died. There is apparent involvement of the applicant in commission of crime, hence, he is not entitled to grant of bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations, the contents of FIR, statement of Nikita recorded under Section 161 of Cr.P.C, the material available in the case diary, I do not consider present to be a fit case for grant of bail.
7. The application is accordingly rejected.

Sd/-
(Parth Prateem Sahu)
Judge