

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7474 of 2021**

Laxman Chandrakar S/o Dwarika Chandrakar, Aged About 26 Years, R/o Oteband, P.S. Gundardahi, District Balod Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through P.S. Gundardahi, District Balod Chhattisgarh.

---- Non-applicant

For Applicant : Mr. P.R. Patankar, Advocate

For Non-applicant/State : Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****30.11.2021**

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 22.08.2020 in connection with Crime No.378 of 2020 registered at Police Station Gundardehi, District Balod (C.G.) for commission of offence punishable under Sections 302, 201/ 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 21.08.2020, at about 6.00 PM, deceased and applicant Laxman Chandrakar consumed liquor, thereafter, some dispute took place between them, upon which, applicant and one co-accused assaulted the deceased by means of *Silbatta* (stone rod). When deceased became unconscious/ found dead, applicant with other co-accused dragged and put the dead body on road. Applicant gave phone call to wife of deceased and intimated her that deceased suffered

accidental injuries and lying on road. Thereafter, incident was reported to concerned Police Station, based upon which, crime was registered. During the course of investigation, statement of witnesses and memorandum of applicant and other co-accused persons were recorded.

3. Mr. P.R. Patankar, learned counsel for the applicant would submit that applicant has been falsely implicated in the instant crime, he has not committed any offence. Two witnesses namely, Chhatrapal Chandrakar and Dageshwar Chandrakar who intimated the Police of confession made by applicant of committing murder of deceased have been examined by the trial Court as PW-4 and PW-3 and they have not supported the case of the prosecution. Other co-accused Shubham Chandrakar has been enlarged on bail in MCRC No.287 of 2021 vide order dated 09.03.2021. Applicant is in jail since 22.08.2020, hence, he may be enlarged on regular bail. He pointed out that as many as ten prosecution witnesses have been examined before the trial Court and none of them supported the case of the prosecution.
4. Mr. Vimlesh Bajpai, Govt. Advocate, opposing the submissions made by learned counsel for the applicant, would submit that applicant has made confession before Chhatrapal Chandrakar and Dageshwar Chandrakar as appearing in their statements recorded under Section 161 of Cr.P.C. Based on the statements of witnesses, applicant was arrested and in his memorandum statement also, applicant admitted his guilt, hence, he is not entitled for the benefit under Section 439 of Cr.P.C.

5. However, learned State counsel does not dispute the submission of learned counsel for the applicant that Chhatrapal Chandrakar and Dageshwar Chandrakar have been examined by the trial Court and they have not supported the case of the prosecution after going through the deposition-sheet of trial Court filed by the applicant along with covering memo.
6. On putting specific query with regard to any eyewitness to the incident, learned State counsel submits that there is no eyewitness to the incident.
7. I have heard learned counsel for the parties.
8. Taking into consideration the facts and circumstances of the case, nature of allegations, further submission of counsel for applicant that witnesses, namely, Chhatrapal Chandrakar and Dageshwar Chandrakar have not supported the case of the prosecution and detention period of the applicant, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
9. 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.25,000/- (Rupees Twenty Five Thousand only) with one local 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