

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7588 of 2021**

Raja Kumar Lodhi son of Chandulal Lodhi, Aged About 22 Years, Resident of Bhadam, Police Station Kota, Tahsil Kota, District- Bilaspur (Chhattisgarh).

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police Station Kota, District Bilaspur (Chhattisgarh).

---- Non-applicant

For Applicant : Mr. U.K.S. Chandel, Advocate

For Non-applicant/State : Mr. Dinesh Tiwari, Dy. G.A.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****01.12.2021**

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 22.06.2021 in connection with Crime No.371 of 2021 registered at Police Station Kota, District Bilaspur (C.G.) for commission of offence punishable under Section 302 of Indian Penal Code.
2. Case of the prosecution, in brief, is that 20.06.2021, Deepak died due to injuries suffered by him. Merg was reported to concerned police station on 20.06.2021. Dead body of Deepak was sent for postmortem. In postmortem report, cause of death is mentioned as "excessive bleeding due to internal hemorrhage and complications of fracture on 4th, 5th, and 6th rib bones". During the course of merg inquiry, statement of

witnesses were recorded on 17.08.2021 under Section 161 of Cr.P.C. wherein family members have stated that deceased gave hand loan of Rs.300/- to applicant and when he approached to applicant for return of hand loan amount, applicant assaulted him; resulting into injuries. Based on statement recorded under Section 161 of Cr.P.C., applicant was arrested in aforementioned crime.

3. Mr. U.K.S. Chandel, learned counsel for the applicant would submit that applicant has been implicated in false and frivolous case and he has not committed offence as alleged against him. During the course of investigation, police recorded statement of Dr. Neelam Tiwari, with whom, deceased was taking treatment. In his statement, doctor has categorically stated that when deceased went to his hospital, he informed that he suffered injuries in result of falling from bicycle. It is also contended that from the statement of Doctor available in charge-sheet in itself sufficient that family members of deceased have levelled false allegation against applicant. Even if, their statement is taken into consideration, it would show that they have stated that deceased informed about the assault by applicant to deceased. There is no eyewitness to incident. Though, alleged incident is stated to be of about 10.00 A.M., there is no connecting evidence against the applicant. Applicant is in jail since 22.06.2021, hence, he may be enlarged on regular bail.

4. Per contra, Mr. Dinesh Tiwari, learned Deputy Government Advocate for the State opposing the submissions of learned counsel for the applicant, would submit that in FIR as well as in statement of witnesses, there is categorical and specific allegation against the applicant that on 16.06.2021, applicant assaulted the deceased, which resulted in internal hemorrhage as also fracture of three rib bones. It is contented that in merger intimation, which was lodged on 20.06.2021, applicant is named to have committed the crime, hence, submission of the learned counsel for the applicant cannot be accepted.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, there is no eyewitness of incident, nature of material collected during investigation, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.
7. 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