

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**MCRC No.8125 of 2021**

- Raj Mishra, S/o Suresh Mishra, aged 20 years, R/o Binda Nagar, Behind Andhra School, P.S.- Vaishali Nagar, Bhilai, District Durg (CG)

---- Applicant (In Jail)

**Versus**

- State of Chhattisgarh, through Station House Officer, Police Station- Vaishali Nagar, Bhilai, District- Durg (CG).

....Non-applicant

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| For Applicant     | : | Mr. B.P. Singh, Advocate         |
| For Non-applicant | : | Mr. Vaibhav Singh, Panel Lawyer. |

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**Hon'ble Mr. Justice Parth Prateem Sahu**  
**Order On Board**

**29.11.2021**

1. This is third bail application of applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail. Earlier two applications were dismissed as withdrawn with liberty to revive after examination of eyewitnesses.
2. In view of submission of learned counsel for applicant that this third bail application is preferred after examination of eyewitness of incident before the trial Court, it is considered.
3. Applicant is in custody since 13.3.2020 in connection with Crime No.60/2020 registered at Police Station Vaishali Nagar, Bhilai, District Durg (CG) for commission of offence punishable under Sections 302, 120B, 147 & 148 of IPC.
4. Case of the prosecution, in brief, is that police received information that one dead body is lying on road. During the course of enquiry, police recorded statement of Harish Yadav, Sunil Pandey, Ramhari Gond & Manish Yadav. As per their statement, they have witnessed the incident in which applicant and other accused persons had assaulted deceased by means of club, rod, sword, iron punch etc. On the basis of statement of aforementioned eyewitnesses, police registered

crime in question against applicant and seven others. Applicant was arrested on 13.3.2020.

5. Mr. B.P. Singh, learned counsel for applicant would submit that applicant has been involved in alleged crime based on statements of alleged eyewitnesses namely Harish Yadav, Sunil Pandey, Ramhari Gond & Manish Yadav recorded by police under Section 161 CrPC. However, during examination before the trial Court, these eyewitnesses have not supported case of prosecution. Copies of deposition sheets of all four eyewitnesses are placed on record as Annexure A-4. He submits that on similar ground that PW-1 Harish Chand Yadav, PW-4 Sunil Pandey, PW-5 Ramhari Gond & PW-6 Manish Yadav have not stated name of co-accused Rishabh Paswan and Somnath @ Akshay in their court statement, the Co-ordinate Bench has enlarged them on regular bail vide order dated 22.10.2021 in M.Cr.C. No.8028/2021. Hence, applicant may also be enlarged on regular bail.
6. On the other hand, Mr. Vaibhav Singh, learned Panel Lawyer for the State opposes the submissions made by learned counsel for applicant and submits that specific allegations have been levelled by PW-1 Harish Chand Yadav, PW-4 Sunil Pandey, PW-5 Ramhari Gond & PW-6 Manish Yadav against all accused persons including applicant in their statements recorded under Sections 161 & 164 CrPC. Even name of applicant finds place in their statements. However, after going through deposition sheets of eyewitnesses PW-1 Harish Chand Yadav, PW-4 Sunil Pandey, PW-5 Ramhari Gond & PW-6 Manish Yadav, he does not dispute submission of learned counsel for applicant that alleged eyewitnesses have not stated name of applicant in their Court statement.
7. I have heard learned counsel for the parties.
8. Taking into consideration facts and circumstances of case, nature of allegations; submissions made by learned counsel for both sides; the fact that considering evidence of eyewitnesses PW-1 Harish Chand Yadav, PW-4 Sunil Pandey,

PW-5 Ramhari Gond & PW-6 Manish Yadav, the Co-ordinate Bench has enlarged co-accused Rishabh Paswan and Somnath @ Akshay on regular bail in M.Cr.C. No.8028/2021; applicant is in jail since 13.3.2020, without commenting anything on merits of case, I am inclined to grant regular bail to applicant.

9. Accordingly, bail application is allowed and it is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of 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 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

roshan/-