

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 8390 of 2021

Sanju Vastrakar S/o Shri Shiv Vastrakar Aged About 28 Years R/o Village Parsada Police Station- Sakri District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Sakri, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant : Mr. Arvind Sinha, Advocate

For Non-applicant : Ms. Smriti Shrivastava, Panel Lawyer

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

Order On Board

21/12/2021

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.248/2020 registered at Police Station- Sakri, District- Bilaspur (C.G.) for the offence punishable under Sections 302, 201 of IPC.
2. Case of prosecution is that on 5.9.2020 in between 10:30 AM to 7:00 PM, some unknown persons have caused murder of Arman Kaushik aged about 11 years and his mother-Sarita Kaushik, aged about 30 years in their house by means of axe. Morgue was reported by Rameshwar, husband of late Smt. Sarita. Based upon

which, crime was registered against unknown person. During course of investigation, applicant was arrested on 7.9.2020.

3. Learned counsel for applicant would submit that applicant has been falsely implicated in the crime only on suspicion of previous enmity. He submits that there was relationship between applicant and deceased. When marriage of applicant was fixed with some other girl, deceased- Sarita came to house of applicant and tried to make obstruction on marriage of applicant. It was only this dispute, when brought to knowledge of investigating agency, applicant was taken into custody and thereafter statement of witnesses have been recorded. In statement of Sanskar Ahirwar, child aged about 11 years recorded under Section 161 of Cr.P.C. made allegations against applicant that he was last seen entering into the house of deceased person. Except this, no other evidence against applicant is collected by the investigating agency. He submits that prosecution has examined as many as twelve witnesses till October 2021 including witness Sanskar who was examined as PW1 before trial Court on 7.7.2021. He submits that in his statement, witness Sanskar has not supported case of prosecution. In fact he has denied suggestion made to him with regard to presence of the applicant near house of deceased persons or dragging deceased Arman to his house. Witness Sanskar is the only main witness as projected by prosecution in the charge sheet. Even husband of late Sarita was examined before trial Court. Except the relationship between applicant with Sarita as also some dispute between late Sarita and applicant on the ground of making

attempt of breaking marriage of applicant, there is nothing against applicant in his evidence also. Applicant could not be convicted based on suspicion. Applicant is in jail since 7.9.2020 i.e. more than one year, hence, he may be enlarged on regular bail

4. Learned counsel for the State opposes submissions of learned counsel for the applicant and would submit that serious allegations have been levelled against applicant. She submits that police, during course of investigation, collected photographs showing relationship between applicant and deceased Sarita. She submits that witness Sanskar in his statement under Section 161 of Cr.P.C. has specifically stated that applicant took deceased Arman from playground dragging to his house. At that time, applicant has covered his face but when he was pulling Arman, face mask of applicant opened and witness recognized him as Sanju (sanju mama). It is thereafter the deceased persons i.e. Arman and Sarita were found dead in their house. She submits that photographs and statement of Sanskar Ahirwar are the main evidence against applicant, hence, he is not entitled for grant of bail. However, upon asking to learned counsel for State with regard to submission of learned counsel for applicant based on copy of deposition sheet filed in this bail application particularly statement of Sanskar, she submits that she cannot dispute the copy of deposition sheet placed on record.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case,

nature of allegations, the fact that witness Sanskar who is stated to be key witness to the case of prosecution has been examined before trial Court and applicant was initially arrested only on the basis of suspicion, his pre-trial detention, without commenting anything on merits, I am inclined to allow the bail application.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon his furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that:-

- a) Applicant shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge