

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 163 of 2020

Mukund Cheek S/o Late Nawasai Aged About 34 Years R/o Village Gajadharpur, Police Station - Kusmi, District Balrampur - Ramanujganj Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Kusmi, District - Balrampur - Ramanujganj Chhattisgarh.

---- Non-applicant

For the Applicant	: Mr. Jitendra Shrivastava, Advocate.
For Non-applicant/State	: Mr. Shrikant Kaushik, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

31-01-2020

1. Heard on the application filed under Section 439 of the Cr.P.C. This is a *repeat* bail application filed by the applicant before this Court for grant of regular bail. The earlier bail application MCRC No.3619 of 2018 was dismissed as withdrawn on 3.7.2018 with liberty to revive after sometime, if occasion so arises. The applicant has been arrested on 22.10.2017 in connection with Crime No.89/2017, registered at Police Station - Kusmi, District- Balrampur-Ramanujganj, Chhattisgarh for offence punishable under Sections 341, 506, 323, 302, 147, 148, 149 and 120-B of the Indian Penal Code.
2. It is submitted by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. There is no direct evidence against him to show that he is the main assailant. Further, the eyewitnesses of this case Balvanti and Durgavati have been examined in the trial Court and they have not named the applicant as the assailant who has assaulted and caused fatal injury to the deceased. Therefore, this is a change in circumstance in favour of the applicant. Further,

similarly placed co-accused persons, namely, Heeraman Cheek, Smt. Heeramuni and Godam Cheek have been granted bail by this Court. Hence, it is prayed that the application be allowed.

3. Learned counsel for the State/non-applicant opposes the application. It is submitted that in the statements of the eyewitnesses under Section 161 of the Cr.P.C., they had very clearly stated that when the deceased tried to take shelter in the house of the applicant, this applicant caught hold of the neck of the deceased then the other co-accused persons assaulted by causing fatal injury to the deceased. Therefore, this applicant has very actively participated in the commission of offence. Hence, the applicant is not entitled for grant of bail.
4. Heard learned counsel for the parties and perused the case diary.
5. According to the prosecution case, deceased – Rupan Ram was assaulted by the other co-accused persons on road for the reason that he has illicit relationship with the wife of co-accused – Jagat Pal, the deceased then took shelter in the house of the applicant where this applicant has also participated with the other co-accused persons and the deceased was done to death.
6. After considering the evidence that is present in the case-diary and also perusing the certified copy of the deposition of the witnesses who have been examined before the trial Court, I am of this view that in this case the applicant deserves to be enlarged on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as

and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi