

**The High Court Of Madhya Pradesh****MCRC-4208-2020***(VIJAY VISHWAKARMA Vs THE STATE OF MADHYA PRADESH)***Jabalpur, Dated : 20-03-2020**

Shri Neeraj Jain, learned counsel for the Petitioner.

Shri C.B. Singh, learned Govt. Adv. for the State.

Case diary is available.

This is third/repeat application filed by applicants under Section 439 of Cr.P.C for grant of bail in connection with Crime No.782/2018, registered at Police Station Chourai District Chhindwara for the offence under Sections 147, 148, 149, 307 and 302 of IPC.

First application and second bail application have been dismissed as withdrawn vide orders dated 16.05.2019 and 23.11.2019 respectively.

It is alleged that there was previous enmity between the complainant and applicant party. The allegation against the applicant is that he along with other co-accused persons have caused the injuries by means of axe and stick. Due to assault, the deceased was died on the spot. On the basis of aforesaid, offence has been registered against the applicant.

Learned counsel for the applicant submit that the applicant is innocent and has been falsely implicated. He has not committed any offence. There was no motive or intention of the applicant to commit murder of the deceased. It is a case of free fight between the parties. Charge-sheet has been filed and there is no criminal past against the applicant. The applicant is in custody since 30.11.2018 and the trial would take considerable time to conclude. On these grounds, learned counsel prays for grant of bail to the applicant.

Per contra, learned Govt. Advocate for the respondent/State vehemently opposes the application. He further submitted that it is a case of murder. There is statement under Section 164 of Cr.P.C., of the witness namely Somwati Pal, mother of the deceased. She has stated that she tried to intervene in the matter as the applicant's party were aggressor. She is eye

witness. The present applicant has actively participated in the alleged incident and pray for its rejection.

Heard counsel for the respective parties and perused the case diary. Considering the entire facts and circumstances of the case, nature of evidence, the role attributed to the applicant and taking into consideration the statements of the witness Somwati Pal under Section 164 of the Cr.P.C., and other witnesses under Section 161 of Cr.P.C., so also the gravity of the offence, as deceased died on the spot due to assault, this Court is of the considered view that this is not a fit case to release the applicant on bail. Consequently, the third/repeat application stands **dismissed**.

(AKHIL KUMAR SRIVASTAVA)  
JUDGE

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