

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No.7485 of 2021**

- Deepak Das Manikpuri, S/o Ballu Das, age 19 years, R/o Gram Bhunda, P.S. Kota, Distt. Bilaspur (CG)

---- **Applicant (In Jail)****Versus**

- State of Chhattisgarh, through PS - City Kotwali, District Bilaspur.

....**Non-applicant**

For Applicant	:	Mr. R.K. Gupta, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate

**Hon'ble Mr. Justice Parth Prateem Sahu****30.11.2021**

1. This is first application on behalf of applicant under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as applicant is in custody since 9.6.2021 in connection with Crime No.94/2021 registered at Police Station City Kotwali, District Bilaspur (CG) for commission of offence punishable under Sections 147/149, 148/149, 294, 506B, 302/149 of IPC.
2. Case of the prosecution, in brief, is that on 31.3.2021 at about 4:00 p.m. accused Altaf Khan, Jalil Khan & others assaulted Sheikh Iqbal by means of knife, club, hands & fists as a result he suffered grievous injuries. Sheikh Iqbal was immediately taken to CIMS Hospital, Bilaspur, he was referred to Medical College Hospital, Raipur where during the course of treatment he died on 6.4.2021. Merg was reported to concerned police station. Police registered FIR against persons named by eyewitness to incident. During the course of investigation, applicant is also made accused and taken into custody on 9.6.2021.
3. Mr. R.K. Gupta, learned counsel for applicant would submit that incident took place in a day light at about 4:00 p.m., which was witnessed by Julekha and Salim, but these witnesses in FIR or in their statements recorded under Section 161 CrPC have not stated name of applicant as one of assailants involved in commission of aforementioned crime. Applicant

was not present on spot, he has been made accused only on the basis of memorandum statement of co-accused, hence, he may be enlarged on regular bail.

4. On the other hand, Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that co-accused Rehan Khan, who was named by eyewitnesses as one of assailants, stated in his memorandum statement about active participation of applicant in crime in question, hence there is *prima facie* material connecting applicant with crime in question. Hence, he is not entitled to be released on regular bail.
5. I have heard learned counsel for the parties.
6. Taking into consideration facts and circumstances of case, time of incident, statement of eyewitness of incident; contents of FIR wherein eyewitnesses have not stated name of applicant to be one of accused involved in commission of crime, I am inclined to grant regular bail to applicant.
7. Accordingly, bail application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to satisfaction of trial Court concerned on the conditions that;
  - a) he shall appear before the trial Court concerned regularly on each & 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/-