

(2024) 06 CHH CK 1544
In the Chhattisgarh High Court
Case No : MCRC No. 2351 Of 2024

Ganesh Jaiswal

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 13-06-2024

Acts Referred:

Indian Penal Code, 1860 — Section 34, 302

Citation : (2024) 06 CHH CK 1544

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : HP Agrawal, Rajeev Bharat

Final Decision : Rejected

Judgement

Deepak Kumar Tiwari, J

1. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No.272/2022 registered at Police Station Saraipali, District Mahasamund for offence under Section 302/34 of the IPC.

2. This is the 2nd bail application on behalf of the applicant. The earlier bail application has been rejected on merits vide order dated 13.6.2023 passed in MCRC No.1594/2023.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated. The applicant is behind the bar since 2.7.2022 and out of 18 witnesses, only 3 witnesses have been examined so far, out of which the evidence of Purshottam (PW-3) is not concluded. Conclusion of trial is likely to take considerable time and other two co-accused persons namely, Yogesh Jaiswal and Vignesh Mahapatra have already been released on bail by the coordinate Bench. Considering all these aspects, the applicant may be released on bail.

4. Per contra, learned State Counsel would oppose the bail application on

submission that the earlier bail application was rejected on merits and there is no material change in the circumstances. The applicant is the main accused who has stabbed the deceased namely, Dushyant Chouhan. Apart from that eyewitnesses namely, Umesh Chouhan and Ankit Chouhan were present on 19th March, 2024 before the trial Court for recording their evidence, however, with intention to delay the trial, on the said date, the said witnesses were not examined, as the present applicant and other co-accused had expressed their desire to change the counsel and sought time. He further submits that even at the time of examination of (PW-3) Purshottam on 10.1.2024, the defence counsel had failed in his duty to advance the cause of justice and did not cross-examine the said witnesses. There is a fault on the part of the applicant. The role attributed to the other co-accused persons, who have already been released on bail is different to that of the present applicant and, therefore, the present applicant cannot claim parity. Considering the gravity of the offence and the role attributed to the present applicant, it is not a fit case where the applicant can be released on bail.

5. Considering the submissions of learned counsel for the parties, particularly considering the role attributed to the present applicant, further considering that the earlier bail application has been rejected on merits, there is no material change in the circumstances and that the applicant is the main accused, this Court is not inclined to release the applicant on bail.

6. Accordingly, the Application is rejected.