

**IN THE COURT OF DISTRICT JUDGE-2 & ASJ, GONDIA.**

**SESSIONS TRIAL NO. 55/2020.**  
(CNR: MHGO01000502-2020)

**State Of Mah. -Vs- Kanhaiya**

**ORDER BELOW EXH. 04.**  
(Passed on this 30<sup>th</sup> day of July, 2021)

This is an application under section 439 of the Code of Criminal Procedure moved by applicant/accused Kanhaiya s/o Tarachand Uikey in Crime No. 242/2019 for the offence punishable under section 302 of the Indian Penal Code.

2. The prosecution case is that during 09/10/2019 to 10/10/2019 deceased Manohar Uikey was found dead in his field. He had gone to the field for guarding the field from wild pigs. During investigation, it transpired that the applicant/accused was having dispute with the deceased on the issue of partition of the field. At the instance of applicant/accused the alleged weapon by which the applicant/accused had inflicted blows was seized and the applicant/accused was arraigned as an accused.

3. It is contended by the applicant/accused that the case is based on circumstantial evidence. There is no eye witness to the incident.

4. I.O. opposed the application on the ground of seriousness of the offence and tampering of the witnesses.

5. Perused the charge-sheet.

6. The prosecution case is mainly based on recovery of an axe and the motive of the accused for killing the deceased. The case is based on circumstantial evidence. At this stage, it can be gathered that the case is not based on strong circumstantial evidence. The accused was in custody for one year. Hence, application can be allowed by imposing conditions. Hence, I proceed to pass the following order:-

**ORDER.**

1. The application (Exh.04) is hereby allowed.
2. Accused **Kanhaiya S/o. Tarachand Uikey**, be released on executing **P R. Bond** of **Rs. 20,000/-** with one surety in the like amount, in Crime No. 242/2019 for the offence punishable under section 302 of the Indian Penal Code registered with Duggipar Police Station on the following conditions:-
  - (i) He shall attend the Court on each and every date, without fail.
  - (ii) He shall not tamper with the prosecution witnesses, in any manner.
3. Hamdast allowed.

Gondia.  
Dated:- 30.07.2021.

(S. B. Parate)  
District Judge-2 & ASJ, **Gondia**.