

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6809 of 2015

Akash Banchhor S/o. Shri Krishna Kumar Banchhor, Aged About 18 Years, R/o. Village- Amleshwar, Post Sakra, Police Station- Amleshwar, Tahsil- Patan, District Durg (Chhattisgarh)

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Amleshwar, District Durg (Chhattisgarh)

---- Respondent

For Applicant	:-	Mr. Praveen Das, Advocate
For Respondent/State	:-	Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09/12/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No. 86/2015, registered at Police Station – Amleshwar, District- Durg (C.G.) for the offence punishable under Sections 147,148,149 and 302 of IPC.
2. Case of the prosecution, in brief, is that in the intervening night of 30.09.2015 and 01.10.2015 a dispute arose while Lord Ganesh idol was going on for immersing at that time the complainant asked for the way as the other party was on it's way named Aryan Group. The complainant were stopped and waited and asked for way which resulted into altercation. Thereafter, the applicant and the other co-accused took out the club from the Jhanki (procession) and assaulted the deceased Madan Nag who fell down and consequently he died.

3. Counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in this case. He further submits sections 147, 148 are not attracted since the congregation was not for any illegal purpose and according to the statement of Driver Satya it has not supported the case of the prosecution and it is stated that after the assault the deceased ran away from the spot. He further submits that who has assaulted the deceased is not clear and the Postmortem report do not disclose the assault caused on the deceased is grievous in nature which caused the death.
4. Learned State counsel opposes the prayer for grant of bail and submit that there were five eyewitness who have categorically stated that the applicant and the other co-accused have assaulted the deceased Madan Nag and consequently he died and therefore, considering the statement of the eyewitness the applicant should not be enlarged on bail.
5. Perused the case diary and statements. Considering the statement of the eyewitness who have categorically stated that the applicant and the other co-accused have assaulted the deceased, this Court is of the opinion that it is not a fit case where the applicant can be released on bail.
6. Accordingly, the bail application is dismissed.

Sd/-

(Goutam Bhaduri)
Judge