

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.5 of 2016

Majruddin, S/o Riyajuddin Ansari, aged about 36 years, R/o Village Bhavrahi Chowki Bajdai, Police Station Surajpur, Civil and Revenue District Surajpur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Aajak Surajpur, District Surajpur (C.G.)

---- Non-applicant

For Applicant:	Mr. Sunil Otwani, Advocate.
For Non-applicant:	Mr. Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

19/02/2016

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.5/2012, registered at Police Station Aajak Surajpur, Distt. Surajpur for the offence punishable under Sections 147, 148, 294, 506B, 302 read with Section 149 of the IPC; Sections 3 (1) (x) and 3 (2) (v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
2. Case of the prosecution, in brief, is that on 28-5-2012, the applicant and four other co-accused persons assaulted Sukhlal, Chowkidar of the tank, by lethal weapon and murdered him, and thereby committed the offence.
3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the

case, his name is Mahrudin and not Majruddin. Learned counsel relied upon various documents filed along with the bail application to demonstrate that the applicant is a Government teacher and since working on the post of Teacher as Mahrudin, S/o Reyajuddin and not Majruddin and therefore, he has been falsely implicated and wrongly identified by Tilasobai, wife of the deceased. Charge-sheet has been filed and no useful purpose will be served by keeping the applicant in jail and therefore, he be released on bail. The applicant is in jail since 19-9-2015.

4. On the other hand, learned State counsel opposes the application and submits that the trial Court by order dated 28-11-2015 directed to ascertain the fact and submit a report whereupon the report has been submitted stating therein that the applicant namely Majruddin is the real culprit and he has also been identified by Tilasobai, the complainant, and as such, he was absconding for fairly long time and he was declared absconding. On the permanent warrant of arrest, the applicant has been arrested. Therefore, he is not entitled to be released on bail. Learned State counsel relied upon the testimonies of eyewitnesses Ramphal and Balmukund. The present applicant himself has claimed bail in the name of Majruddin and not in the name of Mahrudin which indicates that the applicant is the real culprit.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, further taking into account the fact that applicant Majruddin has filed this application and the applicant could

be arrested only by permanent warrant of arrest, also taking into account the testimonies of eyewitnesses Ramphal & Balmukund, further taking into consideration the evidence available in the case diary with regard to the fact that the applicant is Majruddin and other evidence available in the case diary, I am not inclined to extend the benefit of Section 439 of the CrPC for grant of regular bail to the applicant. The application is accordingly, rejected.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma