

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3610 of 2016

- Naresh Sahu S/O Johatram Sahu Aged About 20 Years R/O Pachri Para, P.S. - Kurud, Civ : & Rev : Distt. - Dhamtari Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through : P.S. Kurud Dhamtari Chhattisgarh

---- Respondent

For Applicant : Mr. Devershi Thakur, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13.07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 28-06-2008 in connection with Crime No. 184 of 2008, registered at Police Station Kurud, District Dhamtari (CG) for the offence punishable under Section 302 of the IPC.
2. As per prosecution case, the applicant suspected that the deceased Rameshwarlal Yadav was practicing witchcraft against the applicant and other villagers, therefore, he committed his murder on 23-5-2008 by pickaxe and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that the report was lodged on 23-5-2008 by the son of the deceased and subsequently applicant was arrested on 28-6-2008, thereafter, he was granted bail vide order dated 18-8-2009 passed by this Court in M.Cr.C.No. 1508 of 2009. Subsequently, an application was moved by the family members of the deceased before the

Juvenile Justice Board stating that the applicant is not a juvenile at the time of incident and on 13-07-2011 Juvenile Justice Board passed an order and held that the applicant is a major at the time of incident. Being aggrieved by that order, the applicant preferred revision before the Sessions Court and the said revision was also dismissed. In the meanwhile, on 5-8-2015 charge-sheet was filed and permanent warrant was issued against the applicant and the applicant was arrested on 12-3-2016. He would further submit that on the memorandum statement of one Arjun Dhruve, the applicant has been falsely implicated in the said offence after 35 days of the incident as there was previous enmity existing between the parties. It is further submitted that the applicant was enlarged on bail vide order dated 18-8-2009 passed by this Court in M.Cr.C.No.1508 of 2009 and he has not misused the liberty and he himself surrendered on 8-3-2016, therefore he may be enlarged on bail.

4. *Per contra*, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties and have also perused the case diary and the documents.
6. Perused the statement of eye-witness Arjun Dhruve wherein it has been categorically stated that the murder was committed by the present applicant and at the instance of the applicant pickaxe and shoes were recovered which contained bloodstains.
7. Taking into consideration the statement of eye-witness Arjun Dhruve, at this stage veracity of the eye-witness cannot be adjudicated. It can only be judged during adjudication of case and further considering the totality of the circumstances, nature and gravity of the offence, I am not inclined to release the applicant on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju