

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6007 of 2016

1. Sunderlal Nishad S/O Mukkam Nishad Aged About 53 Years R/O Village - Manki, Police Station Arjunda Tehsil - Doundilohara District - Balod Chhattisgarh
2. Dilip Nishad S/O Sunderlal Nishad aged Aged About 30 Years R/O - Village - Manki, Police Station Arjunda Tehsil - Doundilohara District - Balod Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through : Station House Officer, Arjunda, District - Balod Chhattisgarh

---- Respondent

For Applicants : Mr. Avinash Chand Sahu, Advocate

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

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03-10-2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested on 28-10-2015 in connection with Crime No. 234 of 2015, registered at Police Station Arjunda, District Balod (CG) for the offence punishable under Section 307/34 of the IPC.
2. Case of the prosecution, in brief, is that a report was made by the complainant that on 27-10-2015 the applicants over a family dispute on will which was executed by Mukkam, who is father of the complainant and the accused applicants, landed into dispute and thereafter applicant No.1 assaulted the complainant Hirau Ram, his wife Sumrit Bai and his daughter Damini by way of axe and bamboo stick whereby severe injuries were caused to them and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicants would submit that the incident took place because of a dispute over a family share and there was no intention to kill them and the injuries sustained by the complainant and others are not fatal. He would further submit that charge-sheet has been filed in this case, the applicants are in jail since 28-10-2016 and no further investigation is required, therefore, they may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties, perused the case diary and documents including the medical report of the injured persons along with the statement wherein allegations of assault by axe have been attributed to applicant No.2 Dilip Nishad and the allegations of assault by way of bamboo stick have been attributed to applicant No.1 Sunderlal Nishad.
6. Taking into consideration the facts and circumstances of the case, further considering the nature of allegations and weapon used by applicant No.1 Sunderlal Nishad who is shown to be 53 years, I am inclined to release him on bail.
7. Accordingly, the bail application of applicant No.1 Sunderlal Nishad filed under Section 439 of the Cr.P.C. is allowed and it is directed that he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance as and when directed.
8. So far as bail application of applicant No.2 Dilip Nishad is concerned, taking into consideration the facts and circumstances of the case and further considering the nature and gravity of the offence and the weapon (axe) used by him in the commission of offence, I am not inclined to release him on bail.

9. Accordingly, the bail application of applicant No.2 Dilip Nishad is liable to be and is hereby dismissed.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju