

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6377 of 2016

- Monu @ Devraj S/O Sunderlal, Aged About 24 Years R/O Santoshi Nagar, Post Office Raipur, Police Station Tikrapara, Raipur, District Raipur (Chhattisgarh).

---- **Petitioner**

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Tikrapara, District Raipur (Chhattisgarh).

---- **Respondent**

For Applicant : Mr. Shivendu Pandya, Advocate

For Respondent/State : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

19-10-2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 6-7-2016 in connection with Crime No. 341 of 2015, registered at Police Station Tikrapara, District Raipur (CG) for the offence punishable under Sections 147, 148, 149, 323, 302 of the IPC.
2. Case of the prosecution, in brief, is that on 5-7-2015 Sonu and Raja Bangali entered into scuffle with Kailash Harpal and Kailash Harpal was assaulted. Subsequently, he called the other co-accused, wherein the present applicant was also present. Thereafter, one Bhim who tried to intervene into the scuffle was stabbed and he died and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that eye-witness namely Uttam Bakshi has been examined in this case

who is injured witness and nothing has been stated against the present applicant by him and assault by knife is attributed to Kanhaiya and Bablu. He would further submit that the case of the present applicant would fall in the line of other co-accused Amit Jagat who has been enlarged on bail vide order dated 2-9-2016 passed by this Court in M.Cr.C.No. 5077 of 2016. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 6-7-2016 and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail. It is submitted that eye-witness has attributed allegation to this applicant and even though the eye-witness has not supported the prosecution case, the case has to be decided on the basis of circumstantial evidence and the circumstantial evidence shows that the applicant has assaulted at the back side of the victim which is proved by medical evidence, therefore, the offence has been committed by the applicant.
5. I have heard learned counsel for the parties, perused the case diary and other documents.
6. Perused the statement of eye-witness Uttam Bakshi. It appears that the State counsel without going through the statement of the eye-witness, has made a statement that the eye-witness saw the applicant Monu assaulting the deceased. Reliance made by the State counsel on 161 statement appears to be completely misconceived as eye-witness has already been examined in this case before the court and nothing is attributed to this applicant.
7. Taking into consideration the facts and circumstances of the case and further considering the statement of eye-witness in which

nothing has been stated against the present applicant and also the fact that charge-sheet in this case has been filed and the applicant is in jail since 6-7-2016, this court is inclined to release the applicant on bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and it is directed that the applicant 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju