

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7306 of 2016

- Chandrahas @ Chamru S/o Ghassu Donde, Aged About 48 Years
R/o Dindayal Upadhyay Ward (Mehta Nagar), Police Station
Bhatapara (Town), District Baloda Bazar Bhatapara, Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through Bhatapara (Town) Police Station
Bhatapara, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For the applicant	:	Mr. B. Madhav Rao, Advocate.
For the Respondent	:	Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23.11.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 10/2016 registered at P.S. Bhatapara (Town), Distt. Baloda Bazar Bhatapara (C.G) for the offence punishable under Section 302 of IPC.
2. As per the prosecution case, on a dispute arose between the applicant and deceased Pankaj Sharma @ Golu, the applicant assaulted him as a result of which Pankaj Sharma succumbed to injuries.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated and in fact no weapon was used by him. He further submits that neither any *mens-rea* factor nor any enmity was existing between the parties. He also submits that out of 23 prosecution witnesses, 16

have already been examined and no one has stated against the present applicant. Copies of the statements of witnesses are annexed to the bail application. It is further submitted that the challan has been filed; applicant is in jail since 21.01.2016 and the trial is being protracted, therefore, he may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail.
5. Perused the case diary and the documents. It appears that out of 23 witnesses, 16 have already been examined and the incident is of the year 2016 therefore, at this stage, I do not find any reason to adjudicate the matter for consideration of bail by evaluating the statements of witnesses as it would amount to usurping the power of trial Court. In view of this, I am not inclined to allow this bail application. Accordingly, it is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**