

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7734 of 2016

- Bhupendra Kumar Nirmalkar S/o Shri Seturam Nirmalkar, Aged About 16 Years R/o Siltara, Damadpara, P. S. Dharsiva, District Raipur (Chhattisgarh), Through Natural Gaurdian Shri Seturam Nirmalkar ---
Applicant

Versus

- State of Chhattisgarh through the Station House Office, Police Station Dharsiva, District Raipur (Chhattisgarh). --- **Respondent**

For the applicant	:	Mr. Keshav Prasad Gupta, Advocate
For the Respondent	:	Mr. U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06.12.2016

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. 222/2016 registered at P.S. Dharsiva, Distt. Raipur (C.G) for the offence punishable under Sections 302 & 201 IPC.
2. As per the prosecution case, a merg intimation was made by one Manoj who is a Supervisor in the Factory that the dead body of Basant yadav who was missing since 25.06.2016 was buried under the dolomite dust. On investigation, it was revealed that the applicant and deceased had a dispute over stealing of mobile and the deceased has disclosed this fact to the supervisor. Consequently, Basant Yadav was assaulted by the present applicant and eventually he died.
3. Learned counsel for the applicant would submit that the applicant has been falsely implicated; there is no evidence against the present applicant and the deceased was last

seen with one Kanhaiyalal, therefore, the prosecution has apprehended a wrong person. It is also submitted that the charge sheet has been filed and the applicant is a juvenile and is under custody since 05.07.2016, therefore, he may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail and would submit that Kanhaiyalal who is an eye-witness had seen that the applicant had assaulted the deceased thereafter he died.
5. Admittedly, the applicant is a juvenile. The report of the Juvenile Board is perused wherein it is stated that the applicant was working in the night shift in the factory because his father was unable to work and he was studying in the morning in the school. The report suggests that because of the night job, lesser sleep and adverse atmosphere of children in the factory and for other reasons, such circumstances occurred and if the applicant is placed in a congenial atmosphere, he may come out of it and the other behavior of the applicant is good.
6. Considering such report, I am inclined to allow this bail application.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on executing a personal bond in sum of Rs.25,000/- by the father/guardian of the applicant. The applicant shall also be produced before the trial Court by the father/guardian as and when directed by the said Court.

C.c. as per rules.

Sd/-

GOUTAM BHADURI
JUDGE