

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 715 of 2017

- Jaspal Singh S/o Karam Singh Aged About 32 Years R/o Ward No. 13, Nandini Mines, Police Station Nandini, District- Durg, Chhattisgarh

---- Petitioner

Versus

- State of Chhattisgarh Through : Station House Officer, Police of Police Station- Nandini, District- Durg, Chhattisgarh

---- Respondent

For the applicant : Mr. B.P. Singh, Advocate.

For the Respondent : Mr. Avinash K. Mishra, P.L.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13-02-2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant who has been arrested on 13-6-2016 in connection with Crime No. 47 of 2014 registered at P.S. Nandini Nagar, District Durg (C.G) for the offence punishable under Sections 294, 506(B), 323, 307, 302, 34 of the IPC.
2. As per the prosecution case, on 17-3-2014 during Holi festival some dispute took place in between Vishnu Das, Rakesh and Chandreshkhar when they demanded some water pouch which led to dispute and thereafter these persons were assaulted by wooden plank and subsequently Rakesh died. It is alleged that the applicant along with other co-accused persons had made such assault and thereby the aforesaid offence was committed.

3. Learned counsel for the applicant would submit that the eye-witnesses have been examined. Neither the present applicants has been identified nor was present at the time of incident. He would further submit that charge-sheet has been filed and the applicant is in jail since 13-6-2016 and no further investigation is necessary, therefore, he may be released on bail.
4. Per contra, learned State Counsel opposes the bail and would submit that the applicant was absconding.
5. Perused the case diary and the documents annexed to the bail application.
6. Perused the statements of Vishnu Das wherein it is stated that he and deceased were assaulted by 5 – 6 persons. Admittedly present applicant was not there when he was examined on 23-2-2015.
7. It is for the trial Court to appreciate the evidence as to whether the present applicant was present or not at the time of incident and made assault or not, 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.
8. Accordingly, it is rejected.

Sd/-

(GOUTAM BHADURI)

Judge

Raju