

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2838 of 2017

- Dilan Yadav S/o Late Shri Khilawan Yadav, Aged About 31 Years R/o Village Chindbhog, Police Station Pathariya, District Mungeli Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pathariya, District Mungeli Chhattisgarh

---- Respondent

For Applicant	:	Mr. Vinay Pandey, Advocate.
For Respondent/State	:	Mr. O.P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

20/11/2017

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 in connection with Crime No. 246/2016, registered at Police Station- Pathariya, District – Mungeli(C.G.) for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code (for short 'IPC').
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. He is in jail since 16.08.2016. After filing the charge-sheet, the trial has commenced and all the eyewitnesses and witnesses of circumstantial evidence have been examined, only the examination of Investigating Officer is pending. None of the witnesses have stated anything against the applicant. It is further submitted that the main accused Om Prakash,

who assaulted the deceased with a bamboo stick, has been acquitted by the Juvenile Justice Board. Similarly, accused Hemant Giri @ Golu Giri has been granted bail by the Co-ordinate Bench of this Court in MCRC No.151 of 2017 on 6.2.2017. For these reasons, applicant is entitled for grant of regular bail.

3. Learned State counsel opposes the prayer for grant of bail and the submissions made in this respect.
4. Heard both the parties and perused the case diary.
5. The facts of the case are these that on the date of incident, applicant and co-accused Hemant Giri along with Om Prakash were assaulting the deceased Milan Yadav. Om Prakash assaulted the deceased with a bamboo stick and the injured Milan Yadav expired on the same date. After lodging the FIR, the case has been registered, investigated and charge-sheet has been filed.
6. Considering the submissions made in this respect and the contents of the case diary, the only allegation against the applicant is this that he assaulted the deceased with hand and fists and similar allegation was levelled against the co-accused Hemant Giri.
7. Considering the facts that the main accused has been acquitted by the Juvenile Justice Board, the co-accused has also been granted bail, the case against the applicant cannot be singled out differently. For these reasons, this application deserves to be allowed.
8. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
9. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha