

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2887 of 2017**

- Smt. Baby @ Vimla Yadav W/o Shankar Lal Yadav Aged About 55 Years Occupation House Wife, Resident Of Kolaibahar, Jamgaon, Police Station Chakradhar Nagar, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station AJAK Raigarh, District Raigarh, Chhattisgarh.

---- Respondent

For Applicant	: Shri Vineet Kumar Pandey, Advocate
For Respondent/State	: Shri Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****31.7.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.360/2016 registered in Police Station AJAK, Raigarh, Distt. Raigarh (CG) for the offence punishable under Sections 307, 450, 458, 506, 324, 323, 147, 148, 149, 34 of the Indian Penal Code and under Section 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act').

3. Learned counsel for the applicant submits that the applicant has been arrested on 09.02.2017, after investigation police has filed charge sheet which is pending before Special Judge under

the Atrocities Act as Special Session trial No.23/17. It is submitted on behalf of the applicant the the police has arrested only two accused persons, present applicant and Om Nath Yadav and also filed charge sheet against three accused persons showing them as absconding under the provisions of Section 299 of Cr.P.C. The applicant is the first offender, she has not actively participated in the incident, though as per the allegation present in the post. In the said assault Seema Sidar and Sarswati Sidar were received multiple injuries and Dhoblal Sidar received two incised wounds, one at palm and another at shoulder. The doctor opined that the injuries are grievous though there is no any query regarding fatality of the injury, the said injured was not at all hospitalized as in door patient. Injured Tapeshwari Sidar received three incised wounds over scalp, knee and between index and middle finger and also got swelling and tenderness in small finger. The doctor opined that the injuries are grievous in nature but any query regarding fatality of the injury was not made. The injured were not hospitalized. As per the allegation, sons of the applicant were assaulting the injured, the applicant was present on the spot and she asked them to commit marpeet. The applicant is in jail since long, she will not commit any offence in future and her case is distinguishable from other co-accused.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and would submit that it is the applicant who instigated the other co-accused, who were having sharp edge weapon of restricted category, provoked

other co-accused to assault. Looking to the entire facts and considering that three other accused are still absconding, instant bail application may be dismissed.

5. Perused the entire material.

6. The applicant is in custody since five months and twelve days, charge sheet has been filed, the trial may take sometime for its conclusion, the applicant has not actively participated in the incident and also after perusal of the injuries received to the injured as aforementioned, and other facts, I am inclined to grant last opportunity to the applicant so that she will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one solvent surety of like sum amount to the satisfaction of the concerned trial Judge for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the

trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

10. In addition, the applicant is directed not to communicate/contact in any of the manner with the complainant, witness and family members cited in the charge sheet or attempt to ask for any favour in the trial directly or indirectly. If so, the witnesses and the complainant may report the said act to the trial Judge and if the trial Judge finds that in any way the applicant directly or indirectly gave pressure or any attempt for any illegal favour in the trial or otherwise, the bail granted to the applicant shall be cancelled without further reference to the Bench and the concerned trial Court shall take the applicant in custody including other measures as provided under the law.

11. Registrar (Judl.) is directed to send a copy of this order to the concerned trial Judge.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE