

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.4219 of 2017

- Jainath @ Chalgaliya S/o Shri Ghurau Pando, Aged About 35 Years (Wrongly Mentioned As Chalgaliha In The Impugned Order Dated 26.04.2017) Pando R/o Bade Damali Mahuaa Bhawana, Police Station-Darima, District Sarguja, Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station-Darima, District- Sarguja, Chhattisgarh.

---- Respondent

For Petitioner	:	Shri RR Soni, Advocate
For Respondent/State	:	Shri Chandresh Shrivastava, PL

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

22/11/2017

Heard.

2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.21/2017 registered at Police Station Darima, District Surguja for the offence punishable under Section 302/34 of IPC.

3. Case of the prosecution is that the applicant assaulted and committed murder of one Chunmuniya Bai.

4. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. He submits that in the earlier statement, child witness-Nirmal Kumar not only involved the present applicant, but also involved his father. He also submits that the statement recorded under Section 164 Cr.P.C., child witness-Nirmal has given a different story of involving the present applicant alone, whereas the applicant has not done anything. He submits that

the statement of child witness-Nirmal would show that there was no intention to cause death, therefore, it would be only a case falls under Section 304-II of IPC punishable with sentence of five years. In these circumstances, learned counsel for the applicant prayed that the applicant may be granted bail as he is in jail for the last seven months.

5. On the other hand, learned State counsel opposed the prayer for grant of bail on the submission that looking to the statement of child witness-Nirmal, prima facie case is made out against the applicant, who had committed the offence.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the material collected by the prosecution, I am not inclined to grant bail to the applicant.

7. Accordingly, the application is rejected.

SD/-

(**Manindra Mohan Shrivastava**)

J U D G E