

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 7952 of 2016

Sakin Singh, S/o. Lulu Singh, aged about 35 years, R/o. Village- Hardwa, Police Station – Reethi, Tahsil and District – Katni (M.P.). (Mistakenly arrested in the place of 'Kuwan Singh @ Kunwar Singh')

----Applicant

Versus

State Of Chhattisgarh, Through : Police Station – Mainpur, District – Gariyaband (Chhattisgarh)

---- Respondent

For Applicant	: Mr. Shashi Kumar Kushwaha, Advocate
For Respondent/State	: Mr. Vivek Singhal, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/01/2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.10/2008, registered at Police Station – Mainpur, District – Gariyaband (C.G.) for the offence punishable under Section 294, 324, 302 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 28.01.2008, a report was made against Kunwar Singh and Saikin Singh that they entered into a dispute, whereby one Kripal Singh was murdered. Subsequently, both the accused could not be apprehended and on 31.03.2014 a permanent arrest warrant was issued against the accused. Subsequently on 21.05.2016, the present applicant who is stated to be Sakin Singh son of Lulu Singh was arrested, who was identified as Kunwar Singh by the brother of the deceased namely Munna Singh.
3. Learned counsel for the applicant would submit that the applicant has been wrongly arrested, neither he is Saikin Singh, who has been

named in the FIR nor is Kunwar Singh. It is stated that he was arrested on identification of Munna Singh, brother of deceased as Kunwar Singh. It is further submitted that the mother of the deceased namely Bongi Bai had also denied the identity of the applicant -Sakin Singh not Kuwa Singh. It is submitted that the enquiry was conducted by the SDOP, Police, wherein it was held by Annexure A/5 that the applicant has wrongly been arrested as Kuwa @ Kunwar Singh actually he is Sakin Singh, therefore, the applicant may be enlarged on bail.

4. The State counsel was directed to file its reply and in the reply no substantive facts have been narrated.
5. I have heard learned counsel appearing for the parties.
6. Considering the facts of this case and considering the controversy in this case about the identification of the applicant, which is supported by the enquiry of the SDOP, wherein the applicant has been stated to be a different person, without further observation on merits of this case, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the 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.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge