

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1158 of 2017

Maan Singh Jangde, S/o. Shri Prisesar Jangde, Aged About 30 Years,
R/o. Village Lachanpur, Chowki- Fastarpur, Police Station-City Kotwali,
District- Mungeli, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station- City Kotwali, District-
Mungeli, Chhattisgarh.

---- Respondent

For Applicant : Mr. Virendra Kumar Janardan, Advocate

For Respondent : Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

06/03/2017

1. This is the second 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.45/2015 registered at Police Station- City Kotwali, Mungeli (C.G.) for the offence punishable under Sections 147, 148, 149, 302, 307, 294 of Indian Penal Code. The first bail application was dismissed on merit on 14.12.2015 in MCRC No.6608 of 2015.
2. As per the prosecution case, in the night of 02.02.2015 at about 9 O'clock a quarrel took place between complainant Santosh Jangde and one Pradeep and thereafter accused Pradeep came alongwith other co-accused Andeep, Kandeep & Mansing and assaulted complainant and fled away. Thereafter, complainant reported the matter to his father Chaitu @ Omprakash, uncle Uttara (Chacha), brother Hemant and Rohit and all they have gone to the house of Shankar to enquire about the assault. At that

time, in between 10:30-11:00 p.m., in the night, accused Pradeep, Andeep, Kandeep, Maan Singh and Shankar in furtherance of common intention abused and badly assaulted the complainant party, as a result of which, Uttara died on the spot and Santosh, Hemant Rohit and Chaitu @ Omprakash sustained grievous injuries.

3. Learned counsel for the applicant would submit that free fight was taken place in between the parties and the applicant was not the aggressor and when there is a free fight, the applicant while defending, the incident occurred and the applicant has not committed any offence, therefore, he may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary and the documents. The earlier bail application was dismissed on 14.12.2015 on merit. Considering the same and also the fact that number of witnesses have already been examined, I do not find it proper to evaluate the statement of the witnesses, as it would amount to usurp the power of the trial Court and adjudicate the case on merit while hearing the case on bail. Considering the facts of this case, I do not find any change of circumstances to reconsider the instant second bail application.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed. However, the trial Court is requested to expedite the trial.

Sd/-
(Goutam Bhaduri)
Judge