

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2197 of 2017

- Aminesh Tiwari S/o Shri Raju Tiwari, Aged About 18 Years R/o Shanti Nagar, Rajnandgaon, Police Station Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- **Petitioner**

Versus

- State Of Chhattisgarh Through Out Post Chikhali, Police Station Kotwali Rajnandgaon, District Rajnandgaon, Chhattisgarh.

---- **Respondent**

For Applicant : Mrs. Renu Kochar, Advocate

For Respondent/State : Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

26-4-2017

1. This is fourth bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 9-6-2016 in connection with Crime No. 383 of 2016, registered at Out Post Chikhali, Kotwali, District Rajnandgaon (CG) for the offence punishable under Sections 307, 294, 506/34 of the IPC. Earlier first bail application was dismissed on merits on 21-9-2016, second bail application was dismissed as withdrawn on 2-12-2016 and on 17-1-2017 third bail application was dismissed as withdrawn simpliciter.
2. As per prosecution case, on 8-6-2016 the applicant assaulted the victim Pankaj by way of knife on abdomen and thigh and thereafter the victim was admitted to the hospital from 8-6-2016 to 14-6-2016 and thereby the aforesaid offence was committed.
3. Learned counsel appearing for the applicant would submit that victim has been examined in this case as PW/1 and entire para 6 of his cross examination has been negated. She would further submit that charge-

sheet has been filed, the applicant is in jail since 96-2016 and no further investigation is required, therefore, he may be released on bail.

4. On the other hand, learned State counsel opposes the prayer for grant of bail.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the statement of victim Pankaj (PW/1) and Saraswati Tiwari (PW/2), mother of the victim wherein positive allegations have been attributed to the present applicant.
7. Considering the facts and circumstances of the case, nature of injuries sustained by the victim and further considering the statements of victim Pankaj (PW/1) and Saraswati Tiwari (PW/2), this court is of the opinion that it is futile to go into the merits of the case for consideration of bail by evaluating the statements of prosecution witnesses as it would amount to usurping the power of trial Court. In view of this I am not inclined to allow this bail application
8. Accordingly, fourth bail application filed under Section 439 of the Cr.P.C. is also liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju