

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3031 of 2017

Vikas Pal, S/o. Shivcharan Pal, aged about 20 years, R/o. Rajiv Nagar,
Ganesh Chowk, Supela, Bhilai, Tahsil and District – Durg (C.G.)

----Applicant

Versus

State Of Chhattisgarh, Through : Station House Office, P.S. - Supela, District
– Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Jitendra Gupta, Advocate

For Respondent/State : Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/04/2017

1. This is the second 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.1036/2015, registered at Police Station – Supela, District – Durg for the offence punishable under Section 302, 294, 506-B, 323, 397 of the Indian Penal Code. The first bail application was dismissed on 16.08.2016 in M.Cr.C. No.4520/2016.
2. As per the prosecution case, on 12.11.2015, the applicant in a state of intoxication demanded money from deceased Ganesh Bhatkar while he was sleeping and on being refused he assaulted Ganesh Bhatkar on his head with a stone. Subsequently, he died on 14.11.2015. The investigation was carried out and after investigation, memorandum of applicant was obtained and he has been arrested on 20.03.2016.
3. Learned counsel for the applicant would submit that out of 19 witnesses, all the material witnesses have been examined on which

most of the witnesses have been turned hostile and they have not supported the case of the prosecution, therefore, he prays that the applicant may be enlarged on bail.

4. Per contra, learned counsel for the State opposes the application for grant of bail.
5. I have heard the learned counsel for the parties.
6. Considering the fact that earlier the bail petition was dismissed on merits and in the second bail, claimed that few of the witnesses have been turned hostile. At this stage appreciating the statement of the witnesses would amount to give a finding of trial while deciding the bail application. This court can not usurp the power of trial Court specially when most of the material witnesses have been examined. Taking into such fact, I am not inclined to entertain the bail application again.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge