

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4966 of 2017

Harish Kumar Kashyap, S/o. Latel Kashyap, Aged About 39 Years, R/o.
Village Piparkhunta, Police Station Lalpur, Tahsil Lormi, District Mungeli,
Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station-
Lalpur, District Mungeli, Chhattisgarh

---- Respondent

For Applicant : Mr. Vipin Singh, Advocate

For Respondent : Mr. Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27.07.2017

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. 191/2016 registered at Police Station- Lalpur, District Mungeli (C.G.) for the offence punishable under Sections 294, 506, 323, 307 of Indian Penal Code. The first bail application was dismissed as withdrawn on 24.01.2017 with liberty to repeat the same after examination of the material witness.
2. Case of the prosecution, in brief, is that on 05.11.2016 a report was made by the complainant that dispute took place with the accused and others and thereafter the accused assaulted the victim and the family members of the complainant which caused fracture of both hands and assault was also made on the head. Thereby, the offence has been committed.

3. Learned counsel for the applicant would submit that this is the second bail application, the first bail application was dismissed as withdrawn on 24.01.2017 with a liberty to repeat the same after examination of the material witnesses and now the material witness Pramod Kumar Kashyap has been examined. He further submits that the applicant was not the aggressor, therefore, the case under Section 307 of I.P.C. is not made out and the applicant is in jail since 29.11.2016, therefore, he may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the statement of Pramod Kumar Kashyap. Considering the same, it would not be proper for this Court to adjudicate the case on merit by holding a trial while hearing the bail application. Taking into totality, I do not find any change of circumstances to entertain this second bail application.
6. Accordingly, the second bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge