

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5074 of 2017

Sunil Kumar Deshlehara, S/o. Angeshwar Deshlehara, Aged about 24 years, R/o. Village Chingri, Police Station- Anda, Tahsil & District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station- Utai, District Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Vikas A. Shrivastava, Advocate

For Respondent : Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.08.2017

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.126/2016 registered at Police Station- Utai, District Durg (C.G.) for the offence punishable under Section 302/34 of Indian Penal Code. The first bail application was dismissed on merit on 17.11.2016 in MCRC No.7185 of 2016.
2. As per the prosecution case, on 12.05.2016 when Tilesh Kumar, Tomeshwar & Chaman Baghel after doing their job were returning on their motorcycle to Pauwara village and when they reached near the house of Chaman Baghel, the applicant alongwith other co-accused persons namely Laxmikant and Sandeep Deshmukh came there on motorcycle and started altercation as to why they were being abused and started assault. Sandeep Deshmukh assaulted Chaman Baghel by way of stone, Laxmikant assaulted him by club and the present applicant assaulted him by hands & fists whereby Chaman Baghel became unconscious and eventually he died.

3. Learned counsel for the applicant would submit that the eye witness has been examined and he has not supported the case of the prosecution, therefore, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the earlier bail dismissal order, which is on merit and the statement of the witnesses. At this stage, it is not proper for this Court to evaluate the statement of the witnesses and give a finding while hearing the bail application, as it would amount to usurp the power of the trial Court. Considering the same, I do not find any change of circumstances to reconsider the instant second bail application.
6. Accordingly, the second bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge