

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1259 of 2018

- Hari Yadav S/o Bhagirathi Aged About 28 Years R/o.- Diyagarh, Post-Gahira, P.S. Lailunga, Tahsil- Lailunga, District- Raigarh (C.G.), District : Raigarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Lailunga, District- Raigarh (C.G.), District : Raigarh, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Ashish Gupta, Advocate.
For Respondent/State	:	Mr. Vijay Bahadur Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

17/04/2018

1. This is the first 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.267/2017, registered at Police Station- Lailunga, District – Raigarh (C.G.) for the offence punishable under Section 302/34 of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case. Applicant is in jail since 10.10.2017. After completion of investigation, charge-sheet has been filed. No case is made out against the applicant as he has not been specifically named by any of the witnesses and he has been implicated only on the basis of the memorandum statement of co-accused. Hence, it is prayed that he may be released on bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that there is sufficient evidence for prosecution of applicant in this case, hence, he is not entitled for grant of bail.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, deceased Minketan Yadav was found dead on 9.10.2017. After inquest procedure, FIR has been lodged against the unknown person. During investigation, some of the witnesses have stated that deceased had inimical terms with this applicant for the reason that this applicant had eloped with the sister of the deceased and also there had been a prior incident in which the deceased was thrashed by this applicant. Apart from that, the evidence that is available on record and referred to by the State counsel is the statement of admission made by this applicant and co-accused person in their memorandum statement which is not admissible in evidence before the trial Court in view of specific provisions of Section 27 of the Evidence Act.
6. Considering the entire material available before me, I am of this view that this is a fit case where applicant should be released on regular bail during the pendency of the trial against him.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)

Judge