

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2024 of 2018**

Dhan Singh Bargah, S/o. Masat Ram Bargah, aged about 30 years, R/o. Pimpapur Gajar Bhawna, Darima, P.S. Darima, District – Surguja (C.G.)

---- Applicant**Versus**

State Of Chhattisgarh, Through- Station House Officer, P.S. - Darima (wrongly mentioned as Batoli in cause title of order sheet), District- Surguja, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sandeep Dubey, Advocate

For State/respondent : Mr. Aaditya Sharma, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**16/05/2018**

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.72/2017, registered at Police Station – Darima, District – Surguja (C.G.), for the offence punishable under Section 302, 34 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this. Applicant is in jail since 31.05.2017. The case is before the trial Court, the main eye-witnesses have been examined and they have not supported the case of the prosecution. Hence, prayed that the applicant be granted regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that one of the witness Singaro Bai is a witness of dying declaration and she has stated that the deceased gave statement before his death that the applicant was also engaged in causing injuries to him. Hence, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the prosecution case, on the date of incident, this applicant and other co-accused persons had been to the house of the accused-Bahadur Pando along with the deceased Loor Sai to help him repairing the roofs of his hut. In the afternoon all of them consumed hand made liquor at that time a dispute arose between the deceased and co-accused Bahadur Pando. At first, deceased assaulted Bahadur Pando with crowbar but co-accused snatched the crowbar from the hand of the deceased and assaulted the deceased. It is alleged that this applicant and other accused persons assaulted the deceased in the same incident. Subsequently, the deceased died due to the head injuries.
6. Considered on the submissions made and the contents of the case diary. Considering on the entire material present in the case diary, the certified copy of the statement of the eye-witnesses that has been filed along with this bail application, which shows that none of the eye-witnesses have given statement supporting the case of the prosecution. In dying declaration of the deceased, where it is alleged that the applicant has assaulted the deceased with a club, there is no specific evidence as to who caused the fatal injuries to the deceased and it appears it is

a case of sudden fight, hence for this reason and looking to the development that has taken place in the trial, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge