

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3670 of 2018**

Mahesh @ Chichi @ Chhotu, S/o Bisahu Lahre, aged about 22 years,
R/o Pandit Deendayal Upadhyay Ward, Bhatapara, P.S. Bhatapara
Town, Tahsil Bhatapara, District Balodabazar Bhatapara (CG).

---- Applicant**Versus**

State of Chhattisgarh, through P.S. Bhatapara Town District
Balodabazar-Bhatapara (CG).

---- Non-applicant

For Applicants : Mr. B.L. Dembra, Advocate

For Non-applicant : Mr. Dhiraj Wankhede, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****30.07.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court.
2. Perused the copy of charge-sheet provided by the learned counsel for the applicants in connection with Crime No.37/2018 registered in Police Station Bhatapara Town, District Balodabazar-Bhatapara for the offence punishable under Sections 302, 34 of IPC.
3. Case of the prosecution, in brief, is that on 26.01.2018 the present applicant along with co-accused Gopi Sonwani, Bholu Satnami and Pramod quarreled with the deceased namely Ravi Nishad and told him that why you are driving the motor-cycle in speed. On 28.01.2018 the present applicant and co-accused Gopi Sonwani and Bholu Satnami had come near the house of deceased, at that time deceased Ravi Nishad had gone in provision store to purchase Gutkha at near temple of Bajrangbali. The applicant and co-accused Gopi Sonwani and Bholu Satnami poured some inflammable substance upon his body and set him on fire.
4. Counsel for the applicant would submit that in the statement of deceased recorded under Section 161 of CrPC, dying declaration, the

name of applicant has not mentioned. He would further submit that the applicant has not committed any offence and has been falsely implicated in the case and as such the applicant is entitled to be released on bail.

5. On the other hand, counsel for the State would oppose the prayer for grant of bail to the applicant.

6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.

7. Though in the statement of the deceased recorded under Section 161 of CrPC, dying declaration, the name of the applicant has not mentioned, but in the statement of Sandhya, Suman, Shakun and Savitri Bai recorded under Section 161 of CrPC, the name of the applicant has mentioned. It has also been mentioned in the statement of Suman, Shakun and Savitri Bai that the applicant and co-accused Bholu Sonwani and Gopi had flown away from the spot. In these circumstances, the applicant does not get any help while deciding the bail application from the statement of the deceased recorded under Section 161 of CrPC and dying declaration.

8. Looking to the facts and circumstances of the case, looking to the seriousness of the offence and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant.

9. Consequently, the first bail application is rejected.

10. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-