

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 4575 of 2018**

Dharam Das Vaishnav, S/o. Late Jaggansth Vaishnav, Aged About 70 Years,
R/o- Jaitgiri, Tahsil Bakawand, District- Bastar State Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through- P.S.- Karpawand, District- Bastar,
Chhattisgarh.

---- Respondent

For Applicant : Mr. Vikash Shrivastava, Advocate
For Respondent : Mr. Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****18/07/2018**

1. This is the first 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.78/2015, registered at Police Station- Karpawand, Bastar, District – Bastar (C.G.) for the offence punishable under Section 147, 148, 149, 307 & 302 of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. Applicant is in jail since 30.02.2018. No case is made out against the applicant on the basis of the material present on record. None of the witnesses have stated anything specific about the act of this applicant only his presence can not amount to his participation in the offence committed. Dying declaration

of the deceased also does not disclose the participation of the applicant. In the dying declaration of the deceased, he has stated that his face was covered with a cloth at the time of incident and then he went unconscious. Hence, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, the learned counsel appearing for the State opposes the bail application and the submission made in this respect. It is submitted that there is evidence of oral dying declaration, which the deceased had made before one of the witnesses in which he has made statement that the applicant was present on the spot as one of the assailant. The son of the deceased also stated that this applicant was present on the spot and soon thereafter the deceased was found in burnt conditions. Hence, there is sufficient evidence to show the participation of the applicant in the offence committed. Hence, the applicant is not entitled for grant of bail.
4. I have heard the learned counsel for the parties and perused the documents placed on record.
5. According to the prosecution case, the deceased Anju Mishra had been to answer the call of nature in the field, then he was assaulted by this applicant and co-accused persons Pooran Mahara, Sukchand Mahar, Dhaniram Bhatra along with other accused person and thereafter, the hands and feet of the deceased were tied and then he was burnt with the help of some kerosene oil. Hearing the shouts of the deceased, the witnesses arrived on the spot and saw the applicant and others fleeing from the spot. After lodging of FIR, investigation has been done and the case is before the trial Court.
6. Considered the submissions made and the contents of the case diary. Considering on the material present in the case diary, the evidence is

against the applicant in the shape of dying declaration of the deceased made to one of the witnesses and also about the presence of the applicant on the spot, hence, looking to the evidence i.e. proposed against the applicant, I am not inclined to enlarged the applicant on bail.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge