

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6516 of 2018**

Giteshwar Kumar Sahare S/o Dewaruram Sahare Aged About 26
Years R/o Village Chawela, Post Bhanwsa, Tahsil Manpur, Police
Station Khadgawa, District Rajnandgaon CG

---- Applicant

Versus

State of Chhattisgarh through Police Station Durg District Durg CG

---- Respondent

For applicant	Mr. H.B. Agrawal, Sr. Adv. with Ms. Iturani Mukharjee, Adv.
For Respondent/State	Mr. Ashok Swarnkar, PL.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****10-10-2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no other bail application is pending before any other Court.
2. Perused the copy of charge-sheet provided by the counsel for the State in connection with Crime No. 05/2018 registered in Police Station Durg, District Durg for the offence punishable under Sections 294, 323/34, 302/34 of IPC.
3. Case of the prosecution, in brief, is that the present applicant and co-accused persons Govardhan Yadav, Tej Kumar Saw and Giteshwar Sahare are employees of Wine Shop. On 02.01.2018 at about 8:30 pm, complainant Pawan Kumar Yadav and deceased Tejram had gone to Wine Shop to purchase liquor. On account of queue, a dispute arose between the complainant, deceased Tejram and the accused persons due to which, the applicant and other co-accused persons had beaten said complainant and deceased by bamboo stick, club and rod. On the next date, when deceased Tejram was taken to hospital for his treatment, Doctor declared him dead.
4. Counsel for the applicant would submit that the applicant has not committed any offence and has been falsely implicated in the case. He would further submit that the prosecution has not made any person as witness who was present in the queue. There are

contradictions in the statements of the witnesses, FSL report does not support the prosecution case and there are also contradictions in the spot map. The applicant is in jail for a long period. He further submits that complainant P.W. 1 Pawan Kumar Yadav and P.W. 2 Smt. Keshar Dhankar have turned hostile in the trial. As such he may be released on bail.

5. On the other hand, counsel for the State would oppose the prayer for grant of bail to the applicant. However, he submits that no criminal antecedent of the applicant is reported in the police case diary.
6. I have heard counsel appearing for the parties and perused the case diary with utmost circumspection.
7. P.W. 1 Pawan Kumar Dhankar though has turned hostile but he has made allegations against the applicant and other co-accused persons. Statements of P.W. 1 Pawan Kumar Yadav and P.W. 2 Smt. Keshar Dhankar are subject matter of the scrutiny of the evidence which can be done by the trial Court at the time of disposal of the trial.
8. Looking to these 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 bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge