

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7040 of 2018**

Suresh Basor, son of Vishwanath Basor, aged about 42 years, resident of Narayanpur, Saraijhotha, Police Station Jhagrakhand, District Korla (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Jhagrakhand, District Korla(CG).

---- Non-applicant

For Applicant : Mr. Goutam Khetrapal, Advocate

For Non-applicant : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****12.11.2018**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.205/2017 registered in Police Station Jhagrakhand, District Korla for the offence punishable under Sections 294, 506, 307 of Indian Penal Code.
3. Case of the prosecution, in brief, is that complainant Dinesh is a resident of village Narayanpur. On 20.11.2017 at about 7:00 pm, he went to the house of his neighbour Shyamwati for calling his wife and he was scolding his wife. The present applicant was present there. He abused the complainant and cause injury on his head by axe. As per MLC report, 5 cm x 2 cm x skin deep lacerated cut wound was present on mid parietal region on the head of the said complainant. Doctor opined that the injury caused by hard and sharp object and the said injury was grievous in nature. As per query report, the injury was dangerous to the life of the complainant.
4. Counsel for the applicant would submit that the applicant has not

committed any offence and has been falsely implicated in the case and as such the applicant may be released on bail. He further submitted that the complainant went to the house of his neighbour Shyamwati in intoxicated condition and he was beating to Shyamwati. To save the life of Shyamwati, the alleged incident was happened. In MLC report, it has been mentioned that alcoholic smell was coming from the mouth of the complainant. Thus, Section 307 of IPC does not attract in case in hand. Instead of it, Section 308 of IPC attracts in case in hand. In support of his case, he drew my attention on the application of Shyamwati.

5. On the other hand, counsel for the State would submit that three others criminal cases have already been registered against the applicant hence is not entitled for grant of bail.

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

7. What would be effect of the application of Shyamwati may be considered by the Trial Court at the time of appreciation of evidence. *Prima facie* it could not be said that Section 307 of IPC does not attract in the case in hand.

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. Consequently, the bail application is rejected.

9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE