

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6154 of 2017

Sundaram Baghel, S/o. Girijasankar Baghel, Aged About 20 Years, R/o. Village & Post Dipapihkala, Tahsil Shankargarh, District Balrampur Chhattisgarh.

--- Applicant.

Versus

State Of Chhattisgarh, Through Shankargarh, District Balrampur Chhattisgarh.

--- Respondent

For the Applicant : Mr. Abhijeet Sarkar, Advocate

For the Respondent : Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

24.01.2018

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 22 of 2016 registered at Police Station-Shankargarh, District Balrampur, Chhattisgarh (C.G) for the offence punishable under Sections 302, 323/34 of Indian Penal Code. The first bail application on dismissed on merit on 03.10.2016 in MCRC No.5014 of 2016.
2. As per the prosecution case, on 25.03.2016 one Nitesh Cherwa went to play Holy to the house of present applicant wherein on some reason or other some dispute took place and present applicant assaulted the deceased Nitesh by fist & kick. Subsequently, he died on the next day.
3. Learned counsel for the applicant submits that the witness Seema Paikra & Anupa Bai have been examined and they have not supported the case of the prosecution, therefore, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.

5. The bunch of statement of the witnesses have been filed in this bail application. On query being made, it is submitted that out of 28 witnesses 12 witnesses have already been examined. Considering the same, since primary evidence is on record, it would not be proper for this Court to evaluate the entire statement and evidence, as it would amount to adjudicate the case on merit while hearing the bail application. It is for the trial Court to adjudicate the same. Therefore, I do not find any change of circumstances to reconsider the instant second bail application.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge