

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2667 of 2019**

Radheylal Kumhar S/o Sadhu Ram Kumhar Aged About 32 Years R/o Village Matiya Chowki Malhar, Poliec Station Masturi, District-Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- **Applicant**

Versus

State Of Chhattisgarh Through Station House Officer, Polie Station Masturi, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- **Respondent**

For the Applicant	:	Shri Anil Tawadkar, Advocate
For the State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

01/05/2019

1. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was rejected by this Court on 19/02/2019 in MCRC No. 879/2019 considering the *prima facie* case against him.
2. Perused the case diary provided by the learned counsel for the State in connection with the Crime No.436/2018 registered at Police Station Masturi, District Bilaspur (C.G.) for the offence punishable under Sections 294, 323, 506, 307, 34 of IPC and Section 3(1-10), 3(1)(द)(घ), 3(2)(va) SCST (PA) Act, 1989.
3. Case of the prosecution, in brief is that complainant Sukhram Soni is about 65 years old. He is resident of village Matiya. On 26/09/2018 about 9.00 p.m. near his field, applicant abused him. Co-accused Chhotelal caused injury on his head by hoe/grub axe. Applicant had also given him threats to kill. Complainant is the member of Scheduled Caste. Applicant is neither member of Scheduled Caste nor Scheduled Tribe. As per MLC report complainant one lacerated wound size 8cm x 1cm was found on his head at frontal area caused by hard and blunt object. As per the query report doctor of Pratham Hospital opined that there was the fracture on left frontal bone on the head of complainant. If he could have not got proper treatment he would have died.
4. Learned counsel for the applicant submitted that complainant Sukhram has been examined in the trial Court and had stated that due to beating

he fell down, thus injury was caused on his head. He drew my attention on para 5 of true copy of statement of complainant recorded by the trial Court which is part of the bail application.

5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant.
6. As per true copy of the statement of complainant he had stated in examination-in-chief that dispute was happened with applicant and co-accused, he had fell down due to beating. Applicant and co-accused had abused him on caste basis.
7. It is well settled legal position that while deciding the bail application Court cannot scrutinized or appreciate the evidence Court can also does not touch the merits and demerits of the case.
8. There is no change in the circumstances of the case on strength of which the applicant be released on bail. Consequently second bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge

Kamde