

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5514 of 2019

- Rajesh Ghasiya S/o Ganesh Ram Ghasiya, Aged About 35 Years, R/o Village Koyda, Police Station Lavan, District Baloda Bazar-Bhatapara Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station Pachpedi District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

----Non-applicant

For Applicant – Ms. Upasana Mehta, Advocate.

For Non-applicant/State – Mr. Sanjay Pathak, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

28-11-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is second bail application before this Court filed by the applicant for grant of regular bail. His earlier bail application, MCRC No.2685/2019 was dismissed as withdrawn on 15-07-2019. The applicant has been arrested on 25-03-2019 in connection with Crime No.05/2019 registered at P.S. - Pachpedi, District Bilaspur, Chhattisgarh for the offence under Section 294, 323, 506, 326/34 of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case. There is no evidence in the charge sheet to make out inflicting of grievous injury to the victim by some dangerous weapon or object. The police had made seizure of only one club from the possession of this applicant. Therefore, no case is made out under Section 326 of the IPC, whereas, the other offences registered against the applicant are of bailable nature. Other co-accused persons have been granted bail, therefore, it is prayed that this applicant may also be granted bail.

3. Learned counsel for the State/non-applicant opposes the application

and submits that this applicant is the main assailant and because of him the victim has suffered injury and was complaining of loss of sight. Therefore, the applicant is not entitled for grant of bail.

4. According to the prosecution case, on the date of incident the complainant, this applicant and others were enjoying a picnic when a dispute arose and then this applicant by making use of some sharp weapon assaulted the victim on his head and eye causing him grievous injury. Hence, this case.

5. Heard learned counsel for the parties and perused the case diary.

6. On perusal of the case diary, it is found that ophthalmologist has reported that the victim has lost sight of one of his eyes, but, none of the injuries have been reported to be caused by any hard and sharp object or any dangerous weapon, therefore, the submission made on behalf of the applicant that it is not a case under Section 326 of the IPC needs to be examined by the trial Court. The applicant is in jail since 25-03-2019 and the trial against him is likely to take some time. Therefore, for these reasons, I feel inclined to allow this application.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge