

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5433 of 2019**

- Prince Gupta S/o Jugal Gupta Aged About 22 Years R/o Ward No.21, Uraon Mohalla, Rapakherwa, Manendragarh, District Koriya (Baikunthpur), Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Mahendragarh, District Koriya (Baikunthpur), Chhattisgarh

---- Non Applicant

For the Applicant : Shri Hemant Kumar Agrawal, Advocate

For the State : Shri Suyash Dhar, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****12.09.2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was rejected by this Court by order dated 13.11.2018 passed in MCRC No.7640 of 2018 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.228/2018 registered at Police Station- Mahendragarh, District- Koriya (Baikunthpur) (C.G.) for the offence punishable under Sections 294, 506, 323, 324, 307, 34 of IPC.
4. Case of the prosecution, in brief is that complainant Guruwaru and Ravi Yadav are resident of Uraon ward. On 29.07.2018 at about 9:15 am applicant and co-accused reached near the house of the

complainants. Applicant and co-accused abused complainant Guruwaru. Applicant and co-accused beat complainant Guruwaru. Co-accused Jugal Gupta caused injuries on the head of the complainant Guruwaru by spade. When complainant Ravi Yadav intervened applicant and co-accused also abused him and gave threatening to kill him. Applicant Prince Gupta caused injury on the head of complainant Ravi Yadav by spade.

5. Counsel for the applicant submitted that as per the FIR alleged place of occurrence is adjacent to the house of complainant but as per the spot map alleged incident took place near the society thus, case is fabricated. Now charge sheet is filed. Applicant is in jail since 01.08.2018. Trial is delayed and delay is not attributed to the applicant. Applicant is suffering from some disease. His grandfather is also an ill person. Regarding the seizure the provisions of Section 102 CrPC have not been complied with. Regarding the FIR Section 157, CrPC has also not been complied with. In these circumstances, applicant may be released on bail. To butteress his argument he placed reliance in the orders of Coordinate Bench of this Court in the matters of **Kishor Vs. State of Chhattisgarh** {2001(1) C.G.L.J. 301}, **Santaru @ Shrikant Baghel Vs. State of CG** {2015(4) C.G.L.J. 334} and **Rajesh Kumar Minocha Vs. State of CG** {2015 (3) C.G.L.J. 436}.
6. This is well settled legal position that at the time of considering the bail application Court can neither scrutinize the evidence nor appreciate the evidence. It is only the trial Court who does this job at the time of appreciation of the evidence.
7. Alleged procedural faults are not itself sufficient ground to enlarge the accused on bail. What would be effect of alleged procedural faults, would be considered by the trial Court after recording the evidence.
8. Detention period of the accused and delay in trial are considerable factors for deciding the bail application but actually it is also true that gravity of the offence, effect of granting bail to the accused on society are also material and more important factors which may be considered at the time of the disposal of the bail application.
9. On the other hand, learned counsel for the State opposes the bail

application, however, he submits that there is no criminal antecedent reported against the applicant in police case diary.

10. Looking to the seriousness of the offence, looking to the gravity of the offence, looking to the impact on society of granting bail to the applicant, this Court finds that applicant does not get any help from the aforesaid orders passed by Coordinate Bench of this Court and this Court finds that applicant is not entitled to be released on bail in second round of litigation.
11. Consequently, the second bail application of applicant is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

PM