

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 6897 of 2020

- Shankar Lalwani, son of Shri Nandkishore Lalwani, aged about 25 years, resident of Street No.8, Sindhi Colony, PS Lalbagh, District Rajnandgaon (CG)

---- Applicants

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Lalbagh, District- Rajnandgaon (CG)

---- Respondent

For Applicant	:	Mr. Ishan Verma, Advocate
For Respondent	:	Mr. Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

08.12.2020

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 10.8.2020 in connection with Crime No.317/2020 registered at Police Station Lalbagh, Rajnandgaon (CG) for commission of the offence punishable under Sections 294 & 307 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on refusal by injured Sushil Yadav, son of complainant, to pluck leaves from Aegle Marmelos tree (बेल का झाड़) stating that his mother has instructed him not to climb tree, the applicant picked up a bamboo stick lying nearby and assaulted Sushil Yadav on his head.
3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the offence in question. Injury caused on the head of Sushil Yadav was not intentional as at the time of accident, the applicant was not armed with any weapon much less bamboo stick, which is evident from the statements of Girdhari Sahu & Sudama. The applicant has not committed the offence as alleged against him. He is in custody since 10.8.2020, the charge sheet has already been filed and he has no criminal antecedents. Hence prayed that applicant may be enlarged on regular bail.

4. On the other hand, learned State Counsel opposes the prayer for grant of bail and submits that specific statement has been made by witnesses Girdhari Sahu & Sudama, Priest of temple, that the applicant first abused the injured and then assaulted him with bamboo stick causing injury on his head, which clearly shows intention of the applicant to commit the offence as alleged against him.
5. I have heard learned counsel for the parties and perused the case diary.
6. As per statements of Girdhari Sahu & Sudama, applicant was not carrying bamboo stick with him, the applicant getting aggravated on account of refusal by the injured to pluck leaves from tree picked up bamboo stick lying nearby on the ground and assaulted the injured. There was no fracture injury on the skull of injured. Applicant, who is in jail since 10.8.2020, has not having criminal past and the charge sheet has already been. In these circumstances, without commenting anything on merits of the case, I am inclined to release applicant on regular bail.
7. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) He shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.
8. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-