

HIGH COURT of CHHATTISGARH, BILASPUR**MCRC No. 7182 of 2020**

- Jitendra Kumar @ Buchchi, s/o Shri Shivmurat Prasad, aged about 36 years, r/o Station Maroda, Bhilai, Tah and Distt Durg, Chhattisgarh

---- Applicant (In Jail)**Versus**

- State of Chhattisgarh Through the Police Station Utai, District Durg Chhattisgarh

---- Respondent

For Applicant	: Shri Vipin Tiwari, Advocate
For Respondent/State	: Shri Sidharth Dubey, Dy GA
For Complainant	: Shri NK Chatterjee, Advocate

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

16.12.2020

1. Applicant has preferred this application under Section 439 of the CrPC for grant of regular bail as he has been arrested in connection with Crime No.432 of 2019 registered at Police Station Utai, District Durg CG for the offences punishable under Sections 294, 323, 325, 327 and 506 of the IPC.
2. Case of the prosecution in brief is that on 27.11.2019 in between 7-9.30 pm on 21.11.2019, Deepak Kumar Giri, son of the complainant and Jitendra Kumar @ Buchchi (present applicant) were having a chat near Sardarbadi. During the course of chat between the two persons, applicant has asked for money from Deepak Kumar Giri to which, he refused, upon which applicant became annoyed and assaulted him by means of Club. Injured was admitted to Hospital for his treatment and thereafter, FIR was lodged against present applicant by father of injured on 27.11.2019, based upon which aforementioned crime was registered.

3. Shri Vipin Tiwari, learned counsel for the applicant submits that all the offences levelled against the applicant are bailable, except the offence punishable under Section 327 of the IPC. There is no allegation against the applicant of extortion of money from the injured, this offence has been intentionally levelled against the applicant, only to make it grievous. The injuries suffered by Deepak Kumar Giri are simple in nature. He also submits that applicant and complainant entered into a compromise, he is in jail since 19.08.2020.

4. Shri Sidharth Dubey, learned Dy Government Advocate for the State opposing the submission made by learned counsel for the applicant submits that there is specific allegation against the present applicant that he demanded money from the injured Deepak Kumar Giri and upon his refusal he assaulted him by means of Club. Looking to the material collected by the Investigating Agency, applicant is not entitled for benefit under Section 439 of the CrPC. He submits that applicant is having five criminal antecedents bearing crime No.45 of 2002, 180 of 2009, 70 of 2010, 84 of 2011 and 109 of 2020. Crime No.109 of 2020 was registered against the applicant for the offence punishable under Section 379 /34 of the IPC.

5. I have heard learned counsel for the parties.

6. Perusal of the impugned order would show that out of five criminal cases registered against the present applicant, four were of 2011 or prior to it. Crime No.109 of 2020 is for the offence under Section 379/34 IPC.

The applicant and Deepak Kumar Giri were known to each other as at the time of incident, it is shown that they were talking with each other.

7. Taking into consideration nature of allegations levelled against the present applicant and considering the statement of Deepak Kumar Giri, s/o the complainant, who suffered injuries, I am inclined to enlarge the applicant on bail.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing a bail bond in the sum of Rs.10,000/- (Rupees ten thousand) with one surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant 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.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE