

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7201 of 2020**

Kishan Nayak S/o Late Kishori Nayak aged about 18 years, Residing of Reavindra Nath Taigore ward P.S. Bodhghat Jagdalpur District Bastar (C.G.).

---- Applicant**Versus**

State of Chhattisgarh Through The Police Station Bodhghat, District Bastar (C.G.).

---- Non-applicant

For Applicant : Shri Shailendra Dubey with Shri Pravin Kumar Tulsyan, Advocate

For Non-applicant/State : Shri Siddharth Dubey, Deputy Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****16.12.2020**

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 11.04.2020 in connection with Crime No.127 of 2020 registered at Police Station Bodhghat, District Bastar, Chhattisgarh for commission of the offence punishable under Sections 186, 294, 323, 332, 307, 353, 427, 506 and 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 09.04.2020, present applicant along with Mahesh Kumar, C.H. Ramarao and Rahul Swami after broking up of the lock of the room of

C.H. Ramarao, assaulted Budhram and also damaged the articles/property kept in observation home. The complaint was lodged by Prakash Shinde, Superintendent of the observation home, based upon which, aforesaid offence was registered against the present applicant.

3. Shri Shailendra Dubey, learned counsel for the applicant submits that allegation levelled against the present applicant is false and frivolous. When ill-treatment was being given to C.H. Ramarao by staff of the observation home, present applicant along with other boys rushed to the room of C.H. Ramarao and intervened to save C.H. Ramarao. He further submits that even if the entire material available in the case diary is taken into consideration, the allegation of commission of assault appears to be levelled against C.H. Ramarao only. He pointed out that Budhram who is injured in the incident has not mentioned any specific act to have done by the present applicant but for that he was present there along with other persons.
4. On the other hand, Shri Siddharth Dubey, learned State Counsel controverting the submissions made by learned counsel for the applicant, submits that present applicant along with Mahesh Kumar, Rahul Swami went to the room of C.H. Ramarao where he has been kept locked and after breaking open the door, they have assaulted Budhram, due

to which, Budhram suffered injuries over his head and hands. He pointed out that present applicant is a child in conflict with the law as offence under Sections 366, 376 of the Indian Penal Code and the provisions of POSCO Act was registered against him, as such, present applicant is not entitled for benefit under Section 439 of the Code of Criminal Procedure, 1973.

5. I have heard learned counsel for the parties.
6. As per statement made by learned counsel for the State based on the case diary that C.H. Ramarao was aggressor, who made an attempt to cause injury upon Budhram and as per the allegations, present applicant was also accompanied with C.H. Ramarao along with two others, taking into consideration the totality of facts and circumstances of the case, particularly, nature of allegations levelled against present applicant, without commenting on the merit of the case, I am inclined to enlarge the 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.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge