

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9368 of 2020

- Dular Singh Diwan, S/o Baldau Diwan, Aged About 45 Years, R/o Village Jaamgaon, P.S. Fingeshwar, District- Gariyabandh, (Chhattisgarh).
---- Applicant

Versus

- State of Chhattisgarh, Through: The Police Station Fingeshwar, Gariyabandh, District : Gariyabandh, Chhattisgarh.

---- Non-applicant/State

For Applicant : Ms. Shivali Dubey, Advocate
For Non-applicant/State : Mr. Dinesh Tiwari, Dy.G.A.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

03.03.2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 30.07.2019 in connection with Crime No 133/2019 at Police Station- Fingeshwar, Gariyaband, District- Gariyaband (C.G.) for the offence punishable under Section 302 of IPC.
2. The allegation against the present applicant is that he used to assault the deceased with club (*danda*) on vital part i.e. head of the deceased namely Dayaram Sahu when he was performing agricultural work in his agricultural field and during treatment he succumb to the injuries caused by the present applicant.
3. Learned counsel for the applicant submits that the allegation against the applicant is false and fabricated, she submits that the present applicant/accused has no criminal antecedents, he is in jail since 30.07.2019, conclusion of the trial is likely to take some time, therefore, at this stage, he may be granted bail.

4. On the other hand, learned State Counsel opposes prayer for grant of bail and submits that prima-facie case is made out against the present applicant because he assaulted the deceased by club which is supported by the eye witness namely Tikam Sahu and Nagendra Sinha account to the incident.
5. Considering the facts and circumstances of the case, nature of injury, statements of the eye witnesses account to the incident, post mortem report of the deceased, without commenting anything on merits of the case, I am not inclined to grant bail to the applicant.
6. Accordingly, the application being without any substance is hereby rejected.

Sd/-
(Gautam Chourdiya)
Judge

Nadim