

M.Cr.C. No.238/2013

31.01.2013

Shri R.S. Parmar, learned Counsel for the applicant.

Shri Anil Ojha, learned panel lawyer for the respondent/State.

By this application filed under Section 439 of the Cr.P.C. applicant Ghanshyam S/o Madanlal Tanwar has moved the application for grant of bail being implicated in Crime No.129/12 registered by police station Kalipeeth, Rajgarh for offence under Sections 307, 326, 341 and 324/34 of the IPC.

Counsel for the applicant has vehemently urged the fact that it is a case of false implication. Even if the prosecution allegations are considered, Counsel submitted that at the most offence under Section 324 of the IPC could be made out against the present applicant and Counsel stated that there are discrepancy between the FIR and the seizure memo. Counsel submitted that the applicant was alleged to have wielded *farsi* according to the FIR, whereas the seizure memo indicates that *lathi* has been recovered from the present applicant and the complainant has alleged that the applicant assaulted injured Moresingh on the head by *farsi*, however, there is no

bony injury and under the circumstances, Counsel prayed that the application be allowed since the applicant has been arrested on 18.09.2012. Counsel also contended that two of the other co-accused persons namely Amarlal and Ramswaroop have already been granted bail by this Court in M.Cr.C.No.8733/2012. Hence Counsel prayed for grant of bail.

Counsel for the respondent/State, on the other hand, has opposed the submissions of the Counsel for the applicant and has submitted that the applicant was fully implicated in the matter. He, however, candidly admitted that there was fracture on the head to the injured Moresingh. Counsel prayed for dismissal of the application.

On considering the above submissions, the impugned order and material available in the case diary and looking to the nature of allegations and fact that the applicant is in jail since 18.09.2012, I find that the application needs to be allowed in the interest of justice. It is hereby allowed.

However, stringent measures need to be imposed, therefore, it is ordered that the applicant be released on bail on his furnishing a bail bond for a

sum of **Rs.25,000/-** (*Rupees Twenty Five Thousand only*) with one surety of like amount to the satisfaction of the Trial Court for his appearance before the concerned Trial Court on all dates of hearing as may be fixed by the Trial Court in this behalf during the pendency of trial.

By way of abundant caution, it is further directed that he shall also mark his presence in the concerned police station on the **first Sunday** of every month between 10.00 a.m. to 12.00 noon during pendency of the trial. Any default in attendance in court and marking presence in the concerned police station, would result in cancellation of bail granted by this Court thereby entitling the police to take the applicant in custody immediately.

It is also directed that the applicant shall abide by all the conditions enumerated under Section 437(3) of the Cr.P.C.

Cc. as per rules.

(Mrs. S.R. Waghmare)
Judge

Jyoti