

M.Cr.C. No. 9803/2017**27.09.2017**

Shri D.K. Maheshwari, learned counsel for the petitioner.

Shri Bhuwan Gautam, learned Public Prosecutor.

ORDER

This is an application under Section 439 Cr.P.C. by **petitioner – Sunil**, who has been arrested by police on **7.5.2017** in **Crime No.237/2017** of **Police Station Kishanganj, Mhow, District Indore**, concerning offences under **Section 302, 294, 323/34** of the **IPC**.

2. Heard the learned counsel for the parties and perused the case diary.

3. Allegedly, on 7.5.2017, at around 7.30 am., Lallu @ Dilip, Dhirendra @ Jallu, Jyoti and present petitioner – Sunil were ploughing the field belonging to the complainant side. The further allegation is that on being asked by the complainant – Nandkishore and his sons – Ankush and Arjun not to plough, all these four persons assaulted. Dhirendra @ Jallu was armed with '**Farsa**', Lallu @ Dilip was armed with sword, Jyoti and petitioner – Sunil were armed with '**Lathi**'. Allegedly, in this incident, Arjun lost his life who was assaulted by Dhirendra @ Jallu with '**Farsa**'. The allegation against the petitioner – Sunil is that he hurled abuses and exhorted the assailants to further assault.

4 Learned counsel for the petitioner submits that no overt act is attributed to the petitioner and that he has been falsely implicated in this case.

5. Per contra, it is submitted by the learned Public Prosecutor that the petitioner Sunil was also present on the spot and he is said to have hurled abuses and exhorted the other co-accused persons to assault the complainant party, therefore, he is not entitled to be released on bail.

6. Though, prayer for bail is opposed by the learned Public Prosecutor, however, considering the role attributed to the petitioner as well as quality of material to support the same, it would be appropriate to enlarge the petitioner on bail.

7. Accordingly, the petition is hereby allowed and it is directed that on furnishing personal bond by the petitioner in the sum of **Rs.40,000/- (Rupees Forty Thousand only)**, with one solvent surety in the like amount to the satisfaction of concerned Chief Judicial Magistrate/Judicial Magistrate, First Class, he shall be released on bail, subject to the condition that he shall make himself available to the Police, as and when required during the investigation and will also remain present before the trial Court as and when directed in that behalf.

C.C. as per rules.

(**VED PRAKASH SHARMA**)
JUDGE

Alok/-