

THE HIGH COURT OF MADHYA PRADESH

M.Cr.C. No.26881/2019

(Udham @ Govind Singh Vs. State of M.P)

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Jabalpur, Dated : 30.08.2019

Shri A.M. Khare, counsel for the applicant.

Shri Shivam Hazari, P.L.for the respondent / State.

Heard with the aid of case diary.

This is **first** application filed under section 439 Cr.P.C. Applicant **Udham @ Govind Singh** was arrested on 05.01.2019 in Crime No. 131/2018 registered at Police Station Bahrol, District Sagar for the offence punishable under Section 302, 307,34, 449 and 201 of IPC.

As per the prosecution case, on 26.11.2019 complainant Meghraj lodged a report and informed the police that at 7 am when on the information of Sheel Rani Chadar he went to her aunt Girija's house situated at village Hanauta he saw that dead body of Shivam was lying there and Girija Bai was also lying there in unconscious state and blood was oozing out from her head. Somebody had murdered Shivam and assaulted Girija Bai. On that, police registered crime No.131/2018 for the offence punishable under Sections 307 and 302 of IPC and investigated the matter. During the investigation, it was found that on 25.11.2018 at 1:00 in the night applicant Udham and co-accused Kallu @ Kalyan Lodhi, Rajju @ Rajkumar @ Rajaram Lodhi and Chandu @ Chandrabhan Lodhi entered into the house of Girija Bai and co-accused Kallu assaulted Shivam by axe on his neck. When Girija Bai tried to rescue Shivam co-accused Kallu assaulted her and applicant Udham and co-accused Rajju caught hold of her and pressed her throat and Kallu assaulted her by axe due to which she sustained an injury in her head.

Learned counsel for the applicant submits that the applicant has not committed any offence and has falsely been implicated in the offence. It is further submitted that except the injured Girija Bai there is no eyewitness of the incident. The alleged incident is said to have occurred on 25.11.2018 while police recorded the statement of Girija Bai for the first time on 16.12.2018. There is no explanation

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regarding the delay in recording the statement of Girija Bai. On the report of Komal Bai, a Criminal Case No. 1642/2011 was registered against Pawan and Hargovind, who are the sons of Girija Bai due to which Girija Bai falsely implicated the applicant in the crime. Charge-sheet has been filed. The applicant is in custody since 05.01.2019 and the conclusion of the trial is likely to take a long time, hence prayed for the release of the applicant on bail.

Learned counsel for the State opposed the prayer and submitted that soon after the incident, Girija Bai had become unconscious after that when she came to her senses, her case diary statement was recorded by the police. She is injured witness and in her case diary statement clearly mentioned that at the time of incident applicant and other co-accused came to her house and committed the incident, so he should not be released on bail.

Looking to the facts and circumstances of the case and the case diary statement of injured Girija Bai and the allegation that applicant also took part in the incident, at this stage, this court is not inclined to grant bail to the applicant. Hence, the M.Cr.C. is rejected.

(Rajeev Kumar Dubey)
Judge

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