

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5788 of 2015

- Sunil @ Dablu Tiwari s/o. Late Shri Awadh Kishore Tiwari, aged about 36 Years (Not Mentioned In The Order Sheet), r/o. Devri, Police Station Saragaon, Civil And Revenue District Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Tikrapara, Civil And Revenue District Raipur, Chhattisgarh

---Respondent

For Applicant : Mr. Kamal Kishore Patel, Advocate.

For Respondent : Mr. Suryakant Mishra, Panel Lawyer.

Hon'ble Shri Justice Inder Singh Uboweja

Order on Board

17 /11/2015

1. This is a second bail application for grant of bail to the applicant. First bail application was dismissed on 13-8-2015.
2. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail, who has been arrested on 26-02-2015 in connection with Crime No.119 of 2015 registered at Police Station, Tikrapara, District Raipur (CG), for the offence punishable under Sections 307 and 342 of the IPC.
3. The case of the prosecution, in brief, is that in order to take revenge due to old animosity, applicant fired gunshot by his licensed pistol at the complainant Shiv Shankar Tiwari, as a result of which he sustained injury on his right thigh and thereby he committed the aforesaid offence.

4. Learned counsel appearing for the applicant would submit that the second bail application has been preferred after some new developments took place. He would further submit that gunshot fired at the complainant is an accidental in nature, the appellant did not have any intention to kill the victim/complainant and he did not use remaining bullets. Even the statement of the complainant reveals that the applicant has not gunshot fired at him intentionally and the witnesses who have been examined on behalf of the prosecution, have not supported the case of prosecution. He would further submit that challan has been filed, the applicant is in jail since 26-02-2015 and no further custodial interrogation is required by the prosecution, therefore, he may be released on bail.
5. *Per contra*, learned counsel appearing on behalf of the State opposing the bail application, would submit that weapon used in crime in question is a deadly weapon, as a result of which the victim suffered grievous injury, therefore, he is not entitled to be released on regular bail
6. I have heard learned counsel for the parties and perused the case diary.
7. Taking into consideration all the facts and circumstances of the case and further taking into consideration the statement of the complainant that the applicant has not gunshot fired at him intentionally and the witnesses, who have been examined, have not supported the case of prosecution, the applicant is in jail since 26-02-2015 and no further custodial interrogation is required by the prosecution, I am of the opinion that, *prima facie*, it is a fit case in which the applicant can be enlarged on bail.
8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond of Rs.25,000/- along with one surety of the like amount to the satisfaction

of the trial Court. He shall appear before the trial court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

**Sd/-
(I.S.UBOWEJA)
Judge**

Chandra