

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2712 OF 2015**

Juned Ansari S/o Muslim Ansari aged about 40 years R/o Village Jhalua P.S.
Garhwa Civil & Revenue Distt. Garhwa (Jharkhand)

---Applicant**Versus**

State of Chhattisgarh, Through Police Station Basantpur, Post and P.S.
Basantpur, District Balrampur (C.G.)

---Non-applicant

For Applicant	:	Mr. A.N. Pandey, Advocate.
For-Non-applicant	:	Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****12/08/2015**

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 in connection with Crime No. 40/2012, registered at Police Station Basantpur, Distt. Balrampur (C.G.), for the offence punishable under Section 302, 120-B/34 of Indian Penal Code and Sections 25 & 27 of Arms Act.

2. Case of the prosecution, in brief, is that, one Kailash Kushwaha was murdered by gunshot injury and it is alleged that Parsu Pawan, Asir Ansari, Mobarak Ansari, Jubari Ansari, Maqsd Ansari, Mehdi Hassan, Suman Ansari, Junaid Ansari, Islam and Afjal Ansari were involved in the incident of murder. Allegation against the applicant is that the applicant had contacted and engaged co-accused shooter to kill kailash Kushwaha and obtained money and thereby committed offence.

3. Learned counsel for the applicant would submit that applicant has not committed any offence and has been falsely implicated in offence in question. He would further submit that except memorandum statement of co-accused Parsu Paswan, there is no evidence to connect the applicant with offence in question and the applicant has been implicated only on the basis of suspicion that he was the person who identified the person to be shot. He would lastly submit that the applicant is in jail since 19/03/2015, therefore, he may be released on bail.

4. On the other hand, learned State counsel would oppose the prayer for grant of bail and submit that there was earlier relationship between applicant and sharp shooter Parsu Paswan- co-accused and it is applicant who has got Parsu Pawan contacted and engaged to kill Kailash Kushwaha and in lieu of that engagement the applicant obtained Rs.8,000/-. He would further submit that offence is said to have been committed on 02/07/2012 and applicant remained absconded for last three years and only arrested after great efforts on 19/03/2015. He would refer to the memorandum statement of Parsu Paswan and submit that there is sufficient material available on record to connect the applicant in offence in question. He would lastly submit that case of the applicant is not identical with co-accused Islam Ansari and others.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; material available in the case diary; active role of the present applicant in offence in question, particularly, that the applicant is said to have engaged Parsu Pawan sharp shooter to murder Kailash Kushwaha on contract amount of Rs. 50,000/- and as per contract given by the applicant, deceased Kailash

Kushwaha was murdered by gunshot injury; further considering the fact that applicant has remained absconded for three years after the offence and did not make available for interrogation and failed to cooperate with the investigation and arrested after three years on 19/03/2015, as such, case of the present applicant is distinguishable from the co-accused persons, who have been granted bail, for the aforesaid reasons, this Court is not inclined to release the applicant on regular bail.

7. Accordingly, bail application filed under Section 439 of the Cr.P.C. is rejected.

8. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Tiwari