

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2361 of 2016

Ghanshyam Vishwakarma S/O Shri Ramnath Vishwakarma Aged About 31 Years R/O Nandai Chowk Rajnandgaon, P.S. City Kotwali Rajnandgaon, Civil & Revenue District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

The State Of Chhattisgarh Through The Station House Officer, Police Station Basantpur District Rajnandgaon, Chhattisgarh.

---- Non-applicantt

For Applicant	Mr. Sumit Shrivastava, Adv..
For non-applicant/State	Mr. Gopa Kumar, Dy. Adv. General.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

30-5-2016

Heard.

The applicant has been arrested on 12-11-2015 on the allegation of having committed offence punishable under Section 307, 120-B and 212/34 of the Indian Penal Code and Section 25 and 27 of the Arms Act.

Case of the prosecution is that co-accused Sonu Thapa fired gun shot on injured Nitin Limbo with intention to kill him. It is alleged that applicant is also involved in commission of offence.

Learned counsel for the applicant submits that even as per statements of injured Nitin Limbo and two eye-witnesses Ravi and Dinesh who are said to be present at the spot, the applicant was not present at the spot and he is implicated only on apprehension that because he has inimical terms with the victim, he could be behind the incident. Learned counsel for the applicant also submits that no test identification parade has been conducted by the prosecution to identify the applicant as the person driving motorcycle in which co-accused Sonu was sitting and wherefrom he fired gun shot. He submits that only on apprehension due to enmity the applicant has been implicated in the case. It is submitted that investigation is complete and charge sheet has been filed. The applicant is in jail since 12-11-2015.

On the other hand, learned counsel for the State opposes the prayer for grant of bail to the applicant and submits that the incident being of attempt to kill the injured by use of a fire arm by co-accused, the applicant is not entitled to be

released on bail.

Taking into consideration the submission that the applicant was not present at the spot and his involvement is on the apprehension that he is having previous enmity with the injured, further the charge sheet has already been filed, this court is of the opinion that present is a fit case in which the applicant should be enlarged on regular bail. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one local surety in the like sum to the satisfaction of the concerned trial court for his appearance as and when directed.

Sd/-
Manindra Mohan Shrivastava
Vacation_Judge