

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2568 of 2016

1. Vicky @ Vivek Pandey, S/o. Gauri Shankar Pandey, aged about 29 years, R/o. Village-Neeche Para, Police Station - Dharamjaigarh, District-Raigarh (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : the Station House Officer, Police Station – Dharamjaigarh, District – Raigarh (Chhattisgarh)

---- Respondent

For Applicant	: Dr. N.K. Shuka, Sr. Advocate with Ms. Laxmin Tondey, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17/06/2016

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.103/2014, registered at Police Station – Dharamjaigarh, District – Raigarh (C.G.) for the offence punishable under Section 302, 201, 364 and 120B read with Section 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 17.03.2014 one Ganesh Ram was missing for which a missing report was lodged by the wife of Ganesh on 31.03.2014. Subsequently, dead body was found in the forest and on investigation it was found that death was homicidal in nature and on investigation it revealed that the deceased, Ganesh

Ram had illicit relation with wife of Munna Khan, therefore, other co-accused hatched a conspiracy to eliminate Ganesh Ram and in pursuant thereto on 17.03.2014 by saying to celebrate the birthday party of the present applicant, the deceased was taken by other co-accused and joined at place, wherein the applicant had assured the other co-accused to save them even Ganesh Ram is murdered and advised there to eliminate, Ganesh Ram. Thereby the offence is committed.

3. Learned counsel for the applicant submits that there is no evidence against the present applicant except one statement of Tauhid Ansari, who had made an inculpatory statement, but, he has been acquitted by the learned Trial Court by an order dated 09.11.2015 filed as Annexure A/2. It is further submitted that presently no evidence is existing and applicant has surrendered on 15.03.2016 and he is in jail and no admissible evidence exists against the applicant in this case, therefore, the counsel prays that the applicant may be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties.
6. Perused the statement as also the judgment of the trial Court, wherein the Trial Court has acquitted the accused Tauhid Ansari on 09.11.2015. Prima-facie no direct evidence is available against this applicant and only on the basis of circumstantial evidence, this applicant has been inculpated. The inculpatory statement made by one of the co-accused, Tauhid Ansari, has been acquitted. Considering the evidence available against this applicant, which is circumstantial in

nature, without any observation on merit, I am inclined to release the applicant on bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge