

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 580 of 2016

Abhishek Singh Chouhan @ Shainki, S/o. Mahendra Singh Chouhan,
Aged about 25 years, R/o. Tulsipur, behind Patta Godown, Police
Station- Kotwali, Rajnandgaon, District Rajnandgaon (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through, Station House Officer, Police of Police
Station Basantpur District Rajnandgaon (C.G.)

---- Respondent

For Applicant	:-	Mr. Purnendra Khichariya, Advocate
For Respondent/ State	:-	Mr. Prafull N. Bharat, Addl. Advocate General, along-with Mr. Sangharsh Pandey, Dy. Govt. Advocate and Mr. Rajesh Choudhary, S.H.O. present in person.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board By

19/02/2016

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No. 204/2015 registered at Police Station- Basantpur, District Rajnandgaon (C.G.) for the offence punishable under Sections 307, 120-B, 212/34 of Indian Penal Code and section 25, 27 of Arms Act. The first bail application of the applicant was rejected on merit on 22.12.2015 in M.Cr.C. No. 7220/2015.

2. Case of the prosecution, in brief, is that on 27.07.2015 at about 7.30 P.M., the applicant alongwith other four co-accused namely Sonu Thapa, Ronit @ Monu Meshram, Ghanshyam & Jugal Kishore assaulted the complainant and Gun shot was made by Sonu Thapa, thereafter, Sonu Thapa along with other co-accused fled away from the scene.
3. Learned counsel for the applicant submits that the charge sheet has been filed in this case and there is no allegation of causing gun shot is levelled against the present applicant and only the allegation is that the present applicant was present alongwith his companion the other co-accused. He further submits that the applicant is in jail since 31.07.2015, therefore, the applicant may be enlarged on bail.
4. Mr. Prafull N. Bharat, Additional Advocate General along-with Mr. Sangharsh Pandey, Dy. Govt. Advocate and Mr. Rajesh Choudhary, S.H.O. present in person. Mr. Prafull N. Bharat Additional Advocate General, making clarification to the earlier submission made by Government would submit that on earlier occasion without any intention inadvertently the mistake was caused in earlier Zarayam Report as it was on the basis of incorrect Zarayam Report was received from City Kotwali, Rajnandgaon. It is submitted that the name of the applicant since was Abhishekh Singh @ Shainki and in the similar of name one Abhishek @ Shainki a case was registered under section 302 of IPC, probably, due to similarity in the names the said bonafide mistake might have been caused and there was no intention to make any wrong statement before the Court. Therefore, he tendered unconditional apology and submit that he has already instructed the Officer

concerned to be careful while making such like of submission in future.

5. Perusal of the affidavit would show the concerned officer has tendered unconditional apology and further prays for pardon. The document filed along-with the affidavit, it appears, prima-facie the mistake might have been caused as another person in name of Abhishek @ Shanki a case was registered. The Officer concerned present before the Court has also been accepted his mistake and he undertake that in future he shall perform his duty with vigilant manner.
6. Taking into fact, that the reasons given and prayer for unconditional apology is accepted.
7. Now coming to the merit of the case, considering the statement of the complainant Nitin Limba, who was assaulted by the applicant and the applicant was the part of the team which caused assault and the Gun shot was made by Sonu Thapa, taking into such statement and the fact that, even if one case is ignored, another three cases are registered against this applicant, considering the past antecedents of this applicant, I am not inclined to release the applicant on bail, and there is no change of circumstances to consider this bail again from the date of earlier rejection of bail dated 22.12.2015.
8. Accordingly, the bail application filed under section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge