

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 2319 OF 2017

Vikas Sinha S/o Fagwaram Sinha, aged about 24 years, R/o Panchshil Nagar, Durg, District Durg (CG).

... Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station Pulgaon, Distt. Durg (CG).

... Respondent

For Applicant	:	Shri Amiykant Tiwari, Advocate.
For Respondent-State	:	Ms. M.Asha, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

01/09/2017

1. This is the first bail application seeking for grant of bail to the Applicant who is in jail since 17.01.2017 in connection with Crime No. 25 of 2017 registered at Police Station Pulgaon, Distt. Durg for the offence punishable under Sections 302,307,323,212,147,148, 149 and 34 of the IPC.
2. The case of the prosecution in brief is that the complainant party on 09.01.2017 had a Cricket Match at night and thereafter they had gone to have their dinner at Arjun Dhaba and by that time they reached Arjun Dhaba, it was past mid night and there the present accused person Vikas Sinha along with a group of persons including Ravi Sonkar, Rounak Dubey, Som Soni, Jai Mahanad, and Shahrukh Irani were already having dinner. That, because of old enmity an altercation took place between the parties and suddenly took an ugly turn where the accused persons is said to have started assaulting the complainant side and in the process one of the accused Jai Mahanand is said to have attacked Abhishek Rathi with

knife which he was having due to which Abhishek succumbed to the injuries. He also assaulted Aniket Sancheti who too received grievous injuries and in the process the informant/complainant Ujjawal Jain also received simple injuries. Dehati Nalisi was reported on 10.01.2017 at around 2:30 am at Police Station Pulgaon, Durg, based upon which an FIR later on was registered on the same day i.e. 10.01.2017 at 4:25 am.

3. The contention of the applicant is that from the entire case diary there is no material with which it can be said that there was an overt act on the part of the present applicant in the commission of the offence. He further submits that the name of the present applicant also was not reflected either in Dehati Nalisi or in the FIR which was registered later on. The allegations which have been attributed against the applicant are bald and vague as it could be and that it is only an omnibus allegation of group attack by which the present applicant has been falsely implicated. None of the witnesses pointedly name the present applicant of having assaulted any of the persons injured or even deceased. He further submits that the Applicant is in custody since 17.01.2017 and as such he has already remained in custody for more than eight months, therefore he may be enlarged on bail.
4. Opposing the bail application, learned Counsel for the State submits that it is a case where the charge against the applicant is one also under Section 149 as also under Section 34 of the IPC. Therefore, even if there is no overt act directly attributed against the applicant, but his sheer presence with the accused persons is sufficient for implicating him in the said offence. It is further submitted that the statement of witnesses examined during the course of the

investigation refers the name of main accused person along with the present applicant and other accused persons also. State counsel refers to the statement of complainant Ujjawal Jain as also the statement of Rishabh Jain and in the statement of these two witnesses, group of persons accompanying the main accused person is established whereas the name of the present applicant is being reflected only in the statement of Rishabh Jain whose statement is recorded much after the date of incident.

5. Having heard the contentions put forth on either side and on perusal of records, the undisputed facts which is reflected from perusal of case diary is that the present applicant was also present along with other accused persons in group. Further, it is also not in dispute that co accused persons were armed while they were having dinner at Arjun Dhaba. It is also apparent from the statement recorded during the course of investigation that the accused persons had in a group assaulted the complainant side. Further, from the Dehati Nalisi as also FIR it reflects that there were other persons in group also present with the accused persons and who had joined the accused person while assaulting the deceased and injured persons.
6. All these materials when cumulatively assessed and taking into consideration the time of accident, this court is of the opinion that this is not a fit case for grant of bail at this juncture.
7. Accordingly, the bail application deserves to be and is hereby rejected.

Sd/-
(P. Sam Koshy)
Judge