

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3714 of 2017

Saurabh Pandiya S/o Ghanshyam Pandiya, Aged About 20 Years R/o
Ganjpara Durg, District Durg Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh S/o Through The Station House Officer Police
Station Pulgaon, Durg, District Durg Chhattisgarh [Through In The
Impugned Order Wrongly Mentioned As District Magistrate Durg

---- Respondent

For Applicant : Mr. Anand Tiwari, Advocate

For Respondent : Mr. Anil S Pandey, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

22/11/2017

1. This is the first 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. 25/2017 registered at Police Station- Pulgaon, District Durg (C.G.) for the offence punishable under Sections 302, 307, 323, 212, 147, 149 read with section 34 of the IPC and Section 25 and 27 of the Arms Act.
2. As per the prosecution case, on 09.01.2017 at night, the applicant had gone to one Arjun Dhaba for taking meal. Arjun Dhaba is a food providing hotel where the persons of the locality had gone to take meal. In the said Dhaba, one Abhishek Rathi and Aniket Sancheti had also gone to take food and some altercation took place between persons present and during altercation one Jai Mahanand attacked on Abhishek Rathi with knife and also caused knife injury to one Aniket Sancheti. Abhishek Rathi succumbed to injury. On the report, the matter was investigated and charge sheet was filed.

3. Counsel for the applicant submits that the applicant had gone to take meal and it was not within his control as to who entered into the Dhaba for taking meal and who are leaving the hotel after taking meal. If anyone was in possession of any arm that was not within his knowledge and if any criminal act is done by anyone by weapon his act is independent act and others have no common object or common intention for the said act because he was not aware whether the person who have been assaulted will come in the same hotel.
4. Per contra, learned State counsel opposes the prayer for grant of bail and submits that the present applicant was present at the time of commission of offence and he can be fasten for guilt with the help of Section 149 and 34 of the IPC.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Charge sheet filed against the applicant under Section 302 of the IPC due to homicidal death of Abhishek Rathi. As per postmortem report, one stab injury was found in the body of Abhishek Rathi. As per the evidence of prosecution the said injury is caused by one Jai Mahanand who was having knife in his possession. Charge sheet under Section 307 of the IPC is filed for causing one knife injury to Aniket Sancheti and the same is caused by Jai Mahanand by same knife and only one knife is seized from Jai Mahanand and no other weapon is seized in the case. It is not the case of the prosecution that anyone was having knowledge that Jai Mahanand is having knife in possession. Looking to the facts and circumstances of the case, the applicant is enlarged on bail.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicant shall be released on bail on furnishing a personal bond for a 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.

Sd/-

(Ram Prasanna Sharma)
Judge

Santosh