

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4161 of 2017

Viplaw Vishwas S/o Sapan Vishwas Aged About 22 Years R/o P.V. 17, Police Station Pakhanjoor, District North Bastar Kanker, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station Pakhanjoor, District North Bastar Kanker, Chhattisgarh.

---- Respondent

For Applicant	:	Shri P.K. Tulsyan, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

20/11/2017

Heard.

1. The applicant has been arrested in connection with Crime No.64 of 2015 registered in Police Station- Pakhanjoor, District - Kanker (C.G.) for alleged commission of offence under Sections 147/149, 148/149, 307/149 IPC and Section 25 & 27 of the Arms Act read with Section 149 IPC.
2. Case of the prosecution, in brief, is that the applicant along with other co-accused persons came to the house of complainant and it is alleged that a gunshot was fired with intention to kill the victim.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated only on the ground of suspicion. He submits that the victim has not named the applicant nor the applicant has been identified in any proceedings as the person having fired gunshot on the victim. He next submits that the case of the prosecution against the applicant is based only on the statement of memorandum witnesses, which is not admissible being

hearsay and based on so called disclosure made by other co-accused while in custody having no admissible value. Except this, it is submitted, there is no evidence to convict the applicant. He also submits that weapon alleged to have been used was recovered from the spot and not from the possession of the applicant. He submits that as the investigation is complete, charge sheet has been filed, the applicant may be released on bail.

4. On the other hand, learned counsel for the State, opposing the bail application, submits that in the memorandum of co-accused Viplav Poddar and Indrajeet Mandal, it has been clearly stated that it was the applicant who had fired gunshot. This fact has been stated in the diary statement of memorandum witnesses.
5. Taking into consideration the submissions made by learned counsel for the respective parties, particularly taking into consideration the submission that the victim himself has not implicated the applicant and the applicant's involvement is based on the statement of memorandum witnesses, which itself, is based on the alleged disclosure of co-accused while in the custody of the police, the application is allowed.
6. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge