

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3806 of 2018**

Dharmendra Dhivar S/o Late Thanuram Dhivar Aged About 18 Years R/o-
Mova Thana- Police Station- Pandri, Mova, District- Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Station-
Mova, District- Raipur, Chhattisgarh.

---- Non-applicant

For Applicant:

Ms. Saumya Sharma, appears on behalf
of Smt. Fouzia Mirza, Advocate.

For State/Non-applicant:

Shri V. B. Singh, PL.

Single Bench: Hon'ble Shri Sanjay Agrawal, J**Order On Board****29.08.2018**

1. The applicant has filed this bail application under Section 439 of Code of Criminal Procedure, 1973 (hereinafter referred to as 'the Cr.P.C.') for grant of regular bail as he has been arrested on 20.03.2018 in connection with the crime No. 121/2018 registered in Police Station Mova, District-Raipur for the offence punishable under Section 307/34 of IPC.

2. Case of the prosecution is that the complainant-Kailash Kumar Bharti lodged the complaint alleging therein that on 18.03.2018 at 8:30 p.m., co-accused Pappu Sahu @ Abdullah made a telephonic call to complainant's brother, namely, Rahul Bharati and called to meet at Adarsh Nagar as he used to talk with a girl. Thereafter, the complainant along with his cousins, namely, Chabiram Maandle and Rahul Bharati went to the place of incident at the said time. Further prosecution story is that when they reached there, the applicant and co-accused persons while threatening to kill him(complainant), assaulted

the complainant and when the matter was intercepted by his cousin Chabiram Maandle, he was also assaulted by the applicant along with co-accused with the aid of knife. As a result of which, he sustained grievous injuries and was immediately taken to the hospital. Based upon the said report, the aforesaid offence has been registered against the applicant and the other co-accused persons.

3. Ms. Saumya Sharma, learned counsel for the applicant submits that the applicant has been falsely implicated in connection with the said crime. She submits further that the injured eyewitnesses have already been examined by the Court below and they all have not supported the prosecution story as they turned hostile. She further submits that the applicant is in jail since 20.03.2018, thereby languishing in jail for more than five months, therefore, he may be released on bail.

4. On the other hand, Shri V. B. Singh, learned counsel for the State opposes the bail application and submits that the applicant and other co-accused persons have assaulted the complainant and when it was intercepted by his cousin Chabiram Maandle, he was also assaulted badly by the applicant along with other co-accused persons, therefore, the applicant is not entitled to be released on bail.

5. I have heard learned counsel for the parties and perused the entire case diary carefully.

6. Having considered the facts and circumstances of the case and that by taking into consideration that all the eyewitnesses have turned hostile and by considering further the detention period of the applicant, who is in jail since 20.03.2018, I am inclined to release him on bail. The bail application is accordingly allowed.

7. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- with one surety in like sum to the satisfaction of the concerned trial Court for his appearance before it as and when directed.

8. Before parting with the matter, it is, however, made it clear that this Court has not entered into the merits of the case and the trial Court shall not be influenced by any of the observations of mine while allowing this bail application.

Certified copy as per rules.

Sd/-

(Sanjay Agrawal)
JUDGE