

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 4414 of 2018**

Durgesh Singh son of Bhupdev Singh, aged about 20 years, Caste - Rajput, resident of village Kutmakachhar, Police Station Kurdeg, District Simdega (Jharkhand)

---- Applicant**Versus**

State Of Chhattisgarh Through- Station House Officer, Police Station- Tapkara, District- Jashpur, Chhattisgarh

---- Respondent

For Applicants	:	Shri J. K. Saxena, Advocate
For Respondent/State	:	Ms. Sunita Jain, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****31/08/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 10.09.2017 in connection with Crime No. 39/2016 registered at Police Station- Tapkara, District Jashpur (CG) for the offence punishable under Sections 395, 397 of IPC and 25 & 27 of Arms Act.

2. The allegation against the present applicant as per the prosecution is that he along with 5 other accused persons is said to have entered the house of complainant Amrus Kujur on 24.05.2016 and looted the complainant of Rs.7,000/- and two mobile sets. The present applicant has been arrested on the memorandum statement of an accused.

3. Counsel for the applicant submits that it is a case where the applicant has been falsely implicated in as much as the applicant has not been properly identified for the reason that the complainant from the very outset

of his complaint has been stating that all the persons who had entered his house covered their face yet in the identification parade the complainant could identify the present applicant which is hard to believe. So far as the recovery is concerned, he submits that the alleged articles recovered from the applicant are not those articles which were looted from the house of the complainant. Thus, prayed for grant of bail.

4. Though State counsel opposes the bail application, she does not dispute the contention of the counsel for the applicant. State counsel however submits that from the possession of the present applicant and co-accused Deepak one revolver and one country made pistol were recovered.

5. Given the aforesaid facts and circumstances of the case, particularly considering the fact that the applicant has been implicated on the basis of memorandum statement of other accused persons and the fact that the articles seized from the present applicant are not the same which were looted from the house of the complainant and the identification of the applicant also becomes doubtful as in the FIR, the complainant had stated that all of them had come with mask on their face, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

6. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
JUDGE