

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2344 of 2019

- Abhilash @ Bobby S/o Shri Shrawan Kumar, Aged About 26 Years, R/o Sector-1, Shankar Nagar, Infront of Bal Udyan, Police Station- Civil Lines, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Mandir Hasaud, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Pushpendra Kumar Patel, Advocate.

For Non-applicant/State – Shri I. Lakra, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

22-04-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is third bail application before this Court filed by the applicant for grant of regular bail on the ground of change of circumstances. The first bail application MCRC No.5169 of 2018 was rejected on merits on 13-08-2018. The second bail application filed by this applicant, MCRC No.9633 of 2018 was dismissed as withdrawn on 02-01-2019. The applicant has been arrested on 19-03-2018 in connection with Crime No.93/2018 registered at P.S. -Mandir Hasaud, District- Raipur, Raipur, Chhattisgarh for the offence under Section 302, 307 and 34 of the IPC.

2. It is submitted on behalf of the applicant that the main witnesses in this case have been examined and none of them have identified this applicant as the person who had assaulted the victim and the deceased of this case. No weapon of assault has been recovered from his possession. Therefore, it is prayed that he may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that despite the hostility of eye-witness, prosecution can prove its

case on the basis of circumstantial evidence, therefore, the application may be rejected..

4. Heard learned counsel for the parties and perused the case diary.

5. The earlier application for grant of regular bail has been rejected on merits, therefore, there is no need to consider merits again.

6. The main and only eye-witness of this case is Alankar Pal (PW-10). Certified copy of his deposition has been filed along with this application, he has not identified the applicant as one of the assailants in this case. Therefore, this appears to be a change of circumstances in favour of the applicant, hence, for this reason, I feel inclined to allow this application.

7. Consequently, this application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that the applicant shall 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 Court, for his appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge