

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2874 of 2019

- Balveer Singh @ Rinku S/o Harvansh Singh Aged About 40 Years R/o Fafadih Near Shiv Mandir, Gali No. 3, Police Station Devendra Nagar, Raipur District Raipur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Kabir Nagar, Raipur, District Raipur Chhattisgarh.

---- Respondent

For Applicant : Mr. Harshwardhan Parganiha, Advocate.
For Respondent/State : Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

07/08/2019

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. for grant of regular bail as he is arrested in connection with crime No. 195/2018, registered at Police Station – Kabir Nagar, District- Raipur (C.G.) for the offence punishable under Sections 302, 212 of the IPC and Sections 25, 27 & 30 of the Arms Act.
2. As per prosecution story, at mid night of 14.09.2018 the deceased namely Alok along with his friends went for dinner at Dhaba, where the applicant along with the co-accused Lakhvindar Singh @ Lucky came there and as the deceased and the applicant were known to each other therefore the deceased along with the present applicant sat together with the deceased

and his friends. During the conversation, one friend of deceased namely Shyam has spotted the pistol in possession of the applicant and asked him to show the pistol and to fire the pistol. On the request of Shyam, the applicant walked away from the table and fired a bullet from the pistol on the ground thereafter he again fired from the pistol and hit the deceased, due to which deceased Alok sustained injury on his stomach. Thereafter, the applicant along with co-accused Lakhvinder Singh @ Lucky fled away from the spot. The matter was reported by deceased friend namely Sachin. On the basis of said report, offence has been registered. The applicant is in custody since 15.09.2018.

3. Learned Counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that there are total three eye-witnesses in the case Sachin Tyagi (PW-1), Shyam Nigam (PW-2) and Sunny (PW-3) and all the above mentioned eye-witnesses have not supported the case of the prosecution. In their Court statement they have deposed that at the time of incident, the pistol was in the hand of deceased and accidentally, it was fired. Learned Counsel further submits that both the seizure witnesses Mahesh Kumar (PW-7) and Dinesh Mishra (PW-8) have also not supported the case of the prosecution and turned hostile. Except these witnesses, there is no other evidence available on record. He further submits that another co-accused person namely Lakhvinder Singh @ Lucky has already granted benefit of bail by this Court vide order dated 21.01.2019 passed in MCRC No. 9498/2018. The applicant is in custody since 15.09.2018, charge-sheet has already filed and trial is likely to take some time. Therefore, in these circumstances, the applicant may be released on bail.

4. Per contra, learned Counsel appearing on behalf of the State

opposes the bail application.

5. I have heard learned Counsel for the parties and perused the case diary with due care.
6. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that eye-witnesses as well as seizure witnesses of the case have not supported the case of the prosecution as mentioned by the Counsel for the applicant. Another co-accused person namely Lakhvinder Singh @ Lucky has already granted bail by this Court. The applicant is in custody since 15.09.2018, charge-sheet has already filed and trial will likely to take some time, without further commenting on merits of the case, I am inclined to release the applicant on bail.
7. Accordingly, the bail application is allowed.
8. It is directed that the applicant shall be released on bail on executing a personal bond for a sum of Rs. 25,000/- with one solvent surety for the like amount to the satisfaction of the Trial Court for his appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge