

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3463 of 2019

1. Harish Paswan S/o Indradev (Inderdev @ Chandradev), Aged About 35 Years, R/o Village Babubel, Police Station Haldi, District- Baliya, Uttar Pradesh., District : Ballia, Uttar Pradesh

---- Applicant

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Sirgitti, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

MCRC No. 3686 of 2019

1. Babu @ Ghanshyam Upadhyay S/o Sant Upadhyay, Aged About 33 Years, R/o Village- Maniyar, Post and Police Station- Maniyar, District- Baliya, Uttar Pradesh., District : Ballia, Uttar Pradesh

---- Applicant

Versus

- State of Chhattisgarh, through The Station House Officer, Police Station- Sirgitti, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

--- Non-applicant

For Applicant – Shri Nitesh Shrivastava, Advocate (in MCRC No.3463 of 2019),
Shri Rajeev Kumar Dubey, Advocate (in MCRC No.3686 of 2019).

For Non-applicant/State – Shri Subhash Yadav, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

30-07-2019

1. As both these applications arise out of the same crime number, i.e., Crime No.112/2018 registered at P.S. Sirgitti, District Bilaspur, Chhattisgarh for offence under Section 302, 201, 120B, 34 of the IPC and Section 25 & 27 of Arms Act, they are being decided by this common order.

2. MCRC No.3463 of 2019 has been filed under Section 439 of the Cr.P.C. by applicant Harish Paswan for grant of regular bail as he has been arrested on 25-06-2018 in connection with aforesaid crime number and offence.

MCRC No.3686 of 2019 has been filed under Section 439 of the Cr.P.C. by applicant Babu @ Ghanshyam Upadhyay for grant of regular bail as he has

been arrested on 27-03-2019 in connection with aforesaid crime number and offence.

3. It is submitted by learned counsel for applicants in both the applications that the applicants have been falsely implicated in this case. Applicant Harish Paswan is in jail since 25-06-2018 and applicant Babu @ Ghanshyam Upadhyay is in jail since 27-03-2019. No case is made out against these applicants. Similarly placed co-accused persons, namely, Prabhu Nath Singh, Anup Kumar Tiwari @ Golu have been granted bail by this Court. Therefore, it is prayed that these applications may also be allowed.

4. Learned counsel for the State/non-applicant opposes the applications and submits that it is a case of contract killing in which applicant Harish Paswan has arranged for the contract killer and applicant Babu @ Ghanshyam Upadhyay himself is a contract killer. Co-accused persons, who have been granted bail, their case have been different from the cases that are against these applicants. Hence, both the applications may be rejected.

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

6. The case of prosecution is this, that co-accused Prabhu Nath Singh had some enmity with deceased Shankar Prasad. Therefore, co-accused Prabhu Nath Singh gave a contract for killing, to applicant Harish Paswan (applicant in MCRC No.3463 of 2019) who got the contract of murder executed with the help of other contract killers.

7. On perusal of the case diary, it appears that it has been found in the investigation that it was Babu @ Ghanshyam Upadhyay who has made contact with the deceased on mobile phone and then he shot him dead with firearm. Therefore, I do not feel inclined to grant bail to applicant Babu @ Ghanshyam Upadhyay. Whereas, from the case diary it is revealed that all the time applicant Harish Paswan has remained in jail in Bihar, hence, looking to the

evidence that is proposed against applicant Harish Paswan, I feel inclined to grant bail to applicant Harish Paswan.

8. Accordingly, MCRC No.3686 of 2019 filed by the applicant Babu @ Ghanshyam Upadhyay under Section 439 of the Cr.P.C. for grant of regular bail is rejected.

9. MCRC No.3463 of 2019 filed by applicant Harish Paswan under Section 439 of the Cr.P.C. for grant of regular bail is allowed. It is directed that applicant Harish Paswan 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge