

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5116 of 2019

- Rakesh @ Daddu S/o Shri Heera Singh @ Heera Kahaar, Aged About 38 Years, R/o Village Bansajhaal, Police Station Ratanpur, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kota, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

----Non-applicant

For Applicant – Shri Hemant Kesharwani, Advocate.

For Non-applicant/State – Shri Kapil Maini, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-09-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicant for grant of regular bail. The applicant has been arrested on 17-10-2018 in connection with Crime No.183/2011 registered at P.S. - Kota, District Bilaspur, Chhattisgarh for the offence under Section 394, 365, 411/34 of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case only on the basis of memorandum statement given by the co-accused person which is not admissible in evidence. He is in jail since 17-10-2018. The applicant did not know that he has been prosecuted, therefore, he could not appear before the trial Court earlier, however, when he came to know about that, he has himself surrender before the trial Court on 17-10-2018 and till date the trial against him is not concluded, whereas, the trial of the co-accused persons have been concluded much earlier. Therefore, it is prayed that applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that this applicant has remained in absconsion for about 7 years

because of which the trial against him was withheld, hence, he is not entitled for grant of bail.

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

5. Complainant Durgesh Kumar Yadav has lodged the FIR on 14-05-2011 stating that on the date of incident four unknown persons forcefully took lift in his vehicle and thereafter by assaulting him looted cash, mobile and the vehicle from his possession. The name of this applicant has appeared in the memorandum statement given by the co-accused.

6. After surrender of this applicant police has not taken any interest in getting him identified by the complainant and the case is pending for trial. As the applicant is in jail nearly for 11 months and the trial is till pending, therefore, 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