

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 8507 of 2018**

Chhotelal Yadav, S/o. Rameshvar Yadav, Aged About 27 Years, R/o. Village Karra, P.S. Rajpur, District -Balrampur-Ramanujganj Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : The Police Station Pasta, District Balrampur-Ramanujganj Chhattisgarh.

---- Respondent

For Applicant : Mr. A.K. Yadav, Advocate

For State/respondent : Mr. Rahul Tamaskar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**14/01/2019**

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.47/2017, registered at Police Station – Pasta, District – Balrampur – Ramanujganj (C.G.), for the offence punishable under Section 450, 302, 307, 323, 120-B of the Indian Penal Code and Section 25 and 27 of Arms Act. The first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after some time vide order dated 07.03.2018, passed in M.Cr.C.No.8149/2017.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in jail since 01.08.2017. No case is made out against the applicant according to the material present on record. Neither the applicant was present on the spot of the incident nor he has been identified in test

identification parade by any of the witnesses. Further the main witnesses in this case namely Kunti (P.W.-1) has been examined and she has clearly admitted in her cross-examination that this applicant was not involved in the commission of crime. Therefore, it is prayed that the applicant may be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that according to the prosecution case, the vehicle of the applicant was used in the incident under his express knowledge for commission of offence, therefore, the applicant may not be released on bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. On the date of incident, four unknown persons forced their entry into the house and shop of the Lakhan Yadav with intention to commit robbery and then one of them fired rifle shot fatally injuring Sanjay Yadav, who died later on. After lodging of FIR, three of the co-accused persons have been identified in the test identification parade and no test identification parade has been conducted with respect to this applicant.
6. Considered on the submissions made and the contents of the case diary. Considering on the entire material present in the case and further considering the statement given by one of the main witness, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that 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 trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram