

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 18-1-2019****Delivered on 21-1-2019****MCRC No. 8669 of 2018**

- Dhananjay Kumar Singh S/o Shree Shyam Sundar Singh Aged About 44 Years R/o Chintalnar, Police Station Chintalnar, Tehsil Konta District Sukma, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Jagargunda, District Sukma, Chhattisgarh

---- Respondent

For applicant	Mr. Mahendra Dubey, Adv.
For Respondent/State	Mr. Vinod Tekam, PL.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No. 1/2011 registered in police station Jagargunda, Distt. Sukma (CG) for offence punishable under Section 147, 148, 149, 302 of IPC, Sections 25 and 27 of Indian Arms Act.
3. Perused the case diary.
4. Prosecution story in brief is that on 19-11-2010 Kodi Mana who is father of deceased Kodi Nagesh had gone to grocery shop along with the deceased and his daughter-in-law Kodi Jamuna. Deceased had gone to the grocery shop of Gopal Singh to purchase Gutkha at 10.00 am. At that time, 20-25 nexalites reached there, and surrounded deceased and fired at his body, as a result of bullet injuries, deceased instantaneously succumbed on the spot. The incident was seen by Gopal Singh, Lalu Singh, Sahab Singh. Kodi Mana had identified applicant as member of said nexalite group.
5. Counsel for the applicant argued that the applicant is innocent and falsely implicated. He further argued that P.W. 4 Kodi Mana, P.W. 5 Gopal

Singh, P.W. 6 Lallu Singh and P.W. 9 Sahab Singh have turned hostile in the trial Court, applicant is an active whistle blower and he had filed so many applications before the various government office, which indicates that he had not absconded and was residing there, co-accused Vijay Kumar Jaiswal has been enlarged on anticipatory bail by coordinate bench, the case of applicant is similar to that of his case, thus he may be released on bail.

6. On the other hand, the State Counsel opposed the bail application. He further submits that the facts regarding this applicant are distinguishable to that of the co-accused.

7. It is revealed from the true copies of statements of aforesaid witnesses that at the time of recording of evidence, applicant was declared absconded by the trial Court and the evidence was recorded regarding co-accused Kawasi Kosa, Noppo Mangu alias Madkam Ganga, Madkam Kosa, Midium Pojja, Podiyam Kosa. Looking to the provision of Section 273 of the Cr.P.C. the aforesaid statements cannot be taken into consideration regarding the applicant. Thus, applicant does not get any help from aforesaid statement regarding his bail petition.

8. It emerges from Annexure A-2 which is part of the bail petition, that applicant had addressed several applications to several government officials. On strength of such correspondence it cannot be said prima facie that allegedly he was not absconded and residing there, and police officials had not made any attempt for his arrest.

9. The facts regarding applicant are different from the facts of co-accused Vijay Kumar Jaiswal. In the case in hand applicant is not a government servant who was continuously serving in his place of posting and prima facie it cannot be said that police officials had not made any attempt to arrest him. Thus, applicant does not get any help from this fact that co-accused Vijay Kumar Jaiswal has been released on anticipatory bail by coordinate bench.

10. Looking to the facts and circumstances of the case, looking to the seriousness of the alleged offence and also the impact of granting bail on the society, this Court is not inclined to grant bail to the applicant.

11. Consequently, the MCRC is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge