

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2814 of 2020**

- Dharmendra Singh S/o Shri Lalmani Singh, aged about 50 years, R/o 803, Sunder Nagar, District Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : Police Station Dindayal Upaddhyay Nagar (D.D. Nagar), District : Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. D. K. Gwalre, Advocate.
For Respondent/State : Mr. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****02/07/2020**

1. The accused/applicant has moved this **second bail application** under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 341/2019 registered at Police Station - Dindayal Upaddhyay Nagar (D.D. Nagar), District-Raipur (C.G.) for the offence punishable under Sections 302, 307/34 of the IPC and 30, 27 of the Arms Act.
2. The first bail application of the applicant was dismissed as withdrawn with liberty to revive the same after examination of material witnesses by this Court on 09.03.2020 in MCRC No. 530/2020.
3. The applicant has been granted temporary bail by this Court vide order dated 02.06.2020 and he was directed to surrender before the trial Court on 01.07.2020.
4. The prosecution story, in brief is that, on 02.10.2019 a petty dispute arose between one Mahant @ Bulthu Pathak (since deceased) and the applicant on the issue of not putting the

car's head light on dipper mode while crossing each other on a public road, when the applicant along with his son, proceeded to refuel his car at a petrol pump. The deceased along with his accomplice namely Sourabh Banjare chased the applicant and his son up to the petrol pump and started quarreling with them. The deceased and his accomplice attacked and thereby attempted lives of the applicant and his son by inflicting knife injuries upon both of them, on this situation the present applicant fired from his licensed pistol unfortunately, a bullet hit and the Mahand @ Bulthu Pathak died. Thereafter, offence has been registered against the present applicant.

5. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that despite being aggressor, the accused of counter case namely Saurabh Banjare has been granted benefit of bail vide order dated 19.03.2020 passed in MCRC No. 918/2020 by this Hon'ble Court, therefore, on the ground of parity the applicant also deserves the same relief. He next submits that the applicant is in jail since 03.10.2019, and there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail.
6. On the other hand, counsel for the State opposes the bail application submitting that from the possession of the applicant one magazine of pistol has been seized and the applicant is the main accused who has fired bullet which resulted into death of the deceased, therefore, the applicant may not be enlarged on bail.
7. I have heard learned counsel for the parties and perused the case diary.
8. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, detention period of applicant and further considering the facts that the entire fact situation of the case particularly the whole

incident wherein both the parties have attacked on each other and the applicant is in jail since 03.10.2019 and the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

9. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 50,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.
10. It is made clear that the applicant shall be released on bail only after he furnishes the bail bond as per direction of this Court vide order dated 02.07.2020 and then he is not required to surrender before the trial Court as directed vide order dated 02.06.2020.
11. It is made clear that if the applicant has already been released on bail pursuant to the bail bond already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23.03.2020 in the matter of **In Re : Contagion of COVID 19 Virus in Prisons** (Suo Moto Writ Petition (c) No. 1/2020), he need not furnish bail bond afresh and the bail bond already furnished shall be deemed to be the bail bond furnished in compliance of the order of this Court, but if he has not furnished the bail bond earlier, then he will be required to furnish bail bond within four weeks from today.

**Sd/-
(Rajani Dubey)
Judge**