

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3400 of 2020**

Akash Soni, S/o Vinod Soni, aged about 20 years, R/o Village Bojha, P.S. Prattappur, District Surajpur, Presently R/o in House of Maternal Uncle Bouripara, Ambikapur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, P.S. Ambikapur, District Surguja (CG).

---- Non-applicant

For Applicant	: Mr. Nishi Kant Sinha, Advocate
For Non-applicant	: Mr. D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****09.07.2020**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court in connection with Crime No.512/2018 registered at Police Station Ambikapur, District Surguja for the offence punishable under Sections 398/34 of IPC and Sections 25(1-B) & 27 of Arms Act.
2. The first bail application of the applicant was rejected on merits by this Court vide order dated 19.03.2019 passed in M.Cr.C. No.1329/2019 considering prima facie case against him.
3. Also heard on I.A. No.1/2020 application for grant of ad-interim bail.
4. In the case in hand, no such ground exists for releasing the applicant on ad-interim bail, hence ad-interim bail application is rejected.
5. Case of the prosecution, in brief, is that on 07.10.2018 at 11:50 p.m. complainant Vikram Pratap Singh was going to safeguard room by motorcycle after collecting Rs.4,85,180/- from the foreign liquor shop, Boripara. On the way three unknown masked persons stopped him, one person gave blow, another person get down him from the motorcycle, third person pointed the pistol on his chest, gave threats to kill. Two persons robbed one bag from him containing Rs.4,85,100/-, one purse containing Rs.900/-, some documents, his motorcycle bearing registration number C.G.15D.D.7697. On the memorandum of applicant Akash Soni Rs.18,000/- cash and one country made pistol were seized from him.
6. Counsel for the applicant submitted that the applicant is in jail

since 14.10.2018, co-accused Santosh Kumar Sah has been released on bail by this Court vide order dated 11.04.2019 passed in M.Cr.C. No.2004/2019. The case of the present applicant is also identical to the said co-accused, hence the applicant may be released on bail because the principle of parity is applicable in the case in hand. Alleged memorandum of the applicant was recorded at Police Station Ambikapur, though allegedly he was arrested at Nawanagar, Baldhan, Singrouli, hence memorandum and seizure are doubtful.

7. On the other hand, counsel for the State opposed the bail application.

8. This is true that detention period of the accused/applicant and delay in trial are material factors for the disposal of the bail application filed by the applicant. But it is also equally true that seriousness of the offence and impact of granting bail to the applicant on society are more material and important factors for disposal of the bail application filed by the applicant.

9. This is well settled legal principle that while dealing with the bail application, the Court can neither scrutinize the evidence nor appreciate the evidence. It is only the trial Court, who can do so.

10. On the memorandum of co-accused Santosh Kumar Sah, Rs.40,000/- cash and his own motorcycle were seized from him.

11. In the case in hand, on the memorandum of the applicant Rs.18,000/- cash and one country made pistol were seized from him. Hence, the case of the present applicant is not identical to the case of co-accused Santosh Kumar Sah, who has been released on bail by this Court. In other words, the case of the applicant is severer than case of co-accused Santosh Kumar Sah, hence principle of party does not attract in the case in hand.

12. Looking to the above mentioned facts and circumstances of the case, this Court finds that it is not a fit case where the applicant may be released on bail in the second round of litigation. Consequently, the second bail application is rejected.

13. Certified copy as per rules.

SD/-

(Sharad Kumar Gupta)
JUDGE