

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 17-7-2020****Delivered on 20-7-2020****MCRC No. 3926 of 2020**

Deep Singh @ Deepak S/o Late Sulakhan Singh Aged About 21 Years
R/o Gurdaspur (Punjab), District : Gurdaspur, Punjab

---- Applicant**Versus**

State of Chhattisgarh, through the District Magistrate, Durg CG

---- Non-applicant

For applicant	Mr. Avanish Chandra Sahu, Adv.
For non-applicant/State	Mr. D. C. Verma, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**CAV ORDER**

1. This is second 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. Earlier applicant's first bail application was rejected by this Court vide order dated 2-1-2019 passed in MCRC No. 9431/2018 considering prima facie case against him.
3. The applicant has been arrested in connection with Crime No 70/2018 registered in police station Bhilai Bhatthi, Distt. Durg (CG) for offence punishable under Section 394, 397, 120 (B) of the IPC.
4. Prosecution story in brief is that on 16-5-2018, two unknown persons had booked the car bearing registration No. 08-AA-3268 of the complainant Sandeep Rangari for traveling from Rajnandgaon to Power House. One person sat on front seat whereas another person on rear seat of the car. When they reached near 'Mazdoor Chowk' Sector 1, Bhilai, behind 'A' market, then third person reached there and stopped the car. At that time one person who was sitting on the rear seat assaulted the complainant by knife on his back and another person caught hold his hand. First person again caused blow by knife on head

and back of the complainant and thereafter both the persons fled away from the spot taking the complainant's car. As per test identification parade the complainant had identified applicant and co-accused Baljeet Singh alias Saba. As per MLC report of the complainant, one penetrating wound size 1.5 cm x 0.5 cm x muscle deep was found on scapular region, one cut wound size 2 cm x 1 cm x muscle deep on throat, two other lacerated wounds were also found. Injury No. 1 was found grievous in nature. On the memorandum of the applicant, one mobile, one Kurta, one Jeans were seized from him.

5. Counsel for the applicant submitted that co-accused Baljeet Singh alias Saba has been released on bail by this Court vide order dated 12-12-2019 passed in MCRC No. 7495/2019, the case of the applicant is identical to that of co-accused. Hence, the applicant may be released on applying the principle of parity.
6. On the other hand, the State Counsel opposed the bail application. He further submits that no criminal antecedent has been reported against applicant in the police case diary.
7. As per the certified copy of the statement of P.W. 1 complainant Sandeep Rangari which is part of the bail application he stated in para 5 that he cannot say that he had identified or not any person during test identification parade. He stated in para 9 during his cross-examination that it is wrong that he had identified the applicant and co-accused Baljeet Singh alias Saba. He further stated in para 11 that this is true that in alleged incident, the applicant and other co-accused were not present in his car, this is true that at the time of test identification parade the applicant and co-accused were not present in the jail. Moreover, as per the alleged seizure no blood stains were found on either Kurta or Jeans. The case of the applicant is in same footing as the case of co-accused Baljeet Singh alias Saba. In these circumstances, this Court finds that principle of parity is applicable in favour of applicant. Consequently, the 2nd bail application is allowed and it is directed that if applicant furnishes two solvent sureties for a sum of Rs.25,000/- each along with a personal bond of Rs.25,000/- to the satisfaction of the concerned

Trial Court with the condition that he will appear before the Trial Court at 11:00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.

8. Certified copy as per rules.

(Sharad Kumar Gupta)
Judge