

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5343 of 2020**

- Nirmal @ Sahil S/o Thakur Das Aswani aged about 27 years, R/o House No. 02, Block No. 25 Vidhayak Colony, P.S. Telibandha, District-Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through - P. S. Telibandha, Raipur, District-Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Ms. Kiran Jain, Adv.
For Respondent/State	:	Mr. H. S. Ahluwalia, Dy. A.G.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****23/09/2020**

1. The matter is heard through video conferencing.
2. The accused/applicant has moved this first bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 455/2019 registered at Police Station Telibandha, District-Raipur (C.G.) for the offence punishable under Sections 302 r/w 34 of the IPC and (25/27 of Arms Act Not indicated in order impugned)
3. The prosecution story in brief, is that on 12.09.2019 complainant lodged an F.I.R. that his brother Vikash Poptani was moving on the motorcycle with Vijju and maternal uncle of Vijju at night about 1 am., in the morning at about 4:30 am., he received a phone call from Adarsh Panjavani that his brother was murdered by someone. During the course of investigation memorandum of the co-accused Shudhir was recorded and he has disclosed that deceased quarreled every time with him and on faithful day of incident applicant give knife and told that if deceased quarrel once again with you then you assault to deceased with knife. On the date of incident a quarrel took place between them, then the Shudhir

assaulted with knife to deceased. Based on this offence has been registered against the present applicant and co-accused.

4. 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 the main allegation is against the co-accused Shudhir and the applicant was not present at the spot. He also submits that the entire allegation leveled against the applicant is on the basis of the memorandum statement of the co-accused Shudhir and applicant is in jail since 12.09.2019, there is no likelihood of his case being decided in near future, therefore, the present applicant may be released on bail.
5. On the other hand, counsel for the State opposes the bail application and submits that the applicant did a very serious offence; therefore, no case is made out for grant of bail.
6. I have heard learned counsel for the parties and perused the case diary.
7. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, detention period of applicant and further considering that the main allegation is against the other co-accused person and the applicant was not present at the spot. The applicant is in jail since 12.09.2019, 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.
8. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 25,000/- 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.

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