

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5529 of 2020

Mithilesh Singh @ Bablu S/o Late Hardeo Singh, Aged About 45 Years R/o Khalilpur, Tahsil Rasda, Police Station Fefna, District Baliya (Uttar Pradesh)
Present Address Khar Pathar, Murdaha Mod, P.S. Pipari, Renukut, District Sonbhadra (Uttar Pradesh), District : Sonbhadra, Uttar Pradesh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Sirgitti, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Nitesh Shrivastava, Advocate
For State	:	Shri Gagan Tiwari, Dy. Govt. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/10/2020

Heard.

1. The applicant is arrested in connection with Crime No.112/2020 registered in Police Station -Sirgitti, District- Bilaspur (CG) for alleged commission of offence under Sections 302, 201, 120-B, 34 IPC and Sections 25, 27 of the Arms Act.
2. Case of the prosecution, in brief, is that the applicant is involved in conspiracy of murder of Shankar and it is alleged that the applicant shot him dead on the instructions of Harish Paswan who was given contract of killing by co-accused- Prabhu Nath Singh.
3. Learned counsel for the applicant would submit that in the present case, the involvement of the applicant is based on alleged recovery of a pistol and memorandum statement. He would argue that in the present case, bail applications of other accused- Harish Paswan, Prabhu Nath Singh and Anup

Kumar Tiwari have been allowed and they have been granted bail and that of co-accused Babu @ Ghanshyam Upadhyay has been rejected recording observation that according to prosecution, Babu @ Ghanshyam fired gunshot on the deceased. Learned counsel for the applicant would argue that according to postmortem report, one single injury has been found on the deceased and there is nothing collected by the prosecution during investigation, to show that empty cartridge found at the spot was fired from the firearm allegedly seized from the present applicant. Therefore, it is argued, present is a case of no evidence against the applicant and only on suspicion and memorandum statement, the applicant is being involved.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that present is a case of contract killing where prosecution has come out with the case that co-accused Prabhu Nath wanted to settle score with deceased Shankar and, therefore, he gave contract of killing to co-accused Harish Paswan and, in turn, Harish get this conspiracy of murder executed with the help and involvement of co-accused and the present applicant. He would argue that *desi katta* (pistol) and some live cartridges have been seized from the present applicant. He further argues that though the postmortem report does not state that the injury was bullet injury, upon query, it has been stated that such injury could be caused by bullet. He would further argue that the applicant is a habitual offender and is also facing trial in connection with another murder case in which he had remained absconding and, therefore, if he is granted bail, the applicant may flee away from justice which would hamper trial of the case.
5. I have heard learned counsel for the respective parties. On prima facie considerations, it is found that the involvement of the present applicant Mithilesh is based on story of conspiracy hatched by Harish Paswan who was given contract of killing by Prabhu Nath. Harish Paswan, Anup Kuamr Tiwari and Prabhu Nath have already been enlarged on bail by this Court. While rejecting bail application of one of the co-accused Babu @ Ghanshyam Upadhyay, it has been observed that according to prosecution, gunshot was fired on the deceased by Babu @ Ghanshyam. In the postmortem report, there is one single injury stated. The prosecution has not collected any evidence to prima facie show that empty cartridge found at the spot were

fired from the firearm/*katta* allegedly seized from the present applicant. There is neither any ballistic report nor armourer report.

6. Considering the aforesaid material, present applicant stands on the same footing as other co-accused who have been granted bail by this Court.
7. The application is therefore allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties the like amount to the satisfaction of the concerned trial Court with following further conditions:-
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Judge