

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 6034 of 2020**

Ravi Sidar, S/o Ganesh Ram Sidar, Aged About 40 Years, R/o Village Nakna, P.S. Dharamjaigarh, District- Raigarh (C.G.)

---- Applicant***Versus***

State of Chhattisgarh, Through Station House Officer, P.S.- Shyang District- Korba (C.G.)

---- Respondent***with*****MCRC No. 7945 of 2020**

Ankit Kumar Dwivedi, S/o Chandra Kant Dwivedi, Aged About 22 Years, R/o Village Navadih, Murup, Police Station- Latehar, District- Latehar, Jharkhand.

---- Applicant***Versus***

State of Chhattisgarh, Through - SHO, Police Station Shyang, District Korba (C.G.)

---- Respondent

For Applicant in MCRC No. 6034/2020	:	Mr. Shailendra Dubey, Advocate.
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For Applicant in MCRC No. 7945/2020	:	Mr. Anshul Tiwari, Advocate.
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For State/ Respondent	:	Mr. Adil Minhaj, Govt. Advocate.
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Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/11/2020**

1. As both these applications arise out of the same crime number

therefore, they are being decided by this common order.

2. MCRC No. 6034/2020 is the third bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No. 07/2018, registered at Police Station- Shyang, District- Korba (C.G.) for the offence punishable under Section 302, 397, 398, 120-B, 109, 412, 420, 467, 468, 471 of IPC and Section 25 & 27 of the Arms Act.
3. The first bail application MCRC No. 78/2019 was dismissed on merits on 21.02.2019. The second bail application MCRC No. 5684/2019 was dismissed at motion stage on 28.08.2019.
4. Learned counsel for applicant- Ravi Sidar in MCRC No. 6034/2020 submits that at present the circumstances have been changed. The applicant is in jail since about more than two years. The trial against him has made no satisfactory progress. There is discrepancy in the statement of prosecution witness namely Sukanti Vaishnav, who has been examined in the trial, who has made discrepancy in her statement, which go to show that the applicant was not involved in the commission of offence. Apart from that, she is not reliable witness. The test identification parade of the applicant was conducted in presence of the police officials and there is no chance of conviction of this applicant. Hence, it is prayed that this applicant may be enlarged on bail.

5. MCRC No. 7945/2020 is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No. 07/2018, registered at Police Station- Shyang, District- Korba (C.G.) for the offence punishable under Section 302, 397, 398, 109, 412, 420, 467, 468, 471 r/w 120B of IPC and Section 25 & 27 of the Arms Act.
6. The first bail application MCRC No. 9499/2018 was dismissed on merits on 03.01.2019.
7. Learned counsel for applicant- Ankit Kumar Dwivedi in MCRC No. 7945/2020, adopts the arguments submitted by learned counsel for the applicant- Ravi Sidar in MCRC No. 6034/2020. He further submits that out of 22 witness cited in the charge-sheet, only one witness has been examined. No seizure was made from possession of this applicant. Three other co-accused persons namely Kundan Tiwari, Ashok Kumar Choudhary & Ganesh Narayan Uraon, have already been granted bail by this Court. There is no proper evidence of his identification, therefore, it is prayed that this applicant be enlarged on bail.
8. On the other hand, learned counsel for the State opposes both the bail applications submitting that prosecution has been initiated against these applicants on the basis of evidence that has been found in the investigation. The main witness namely Sukanti Vaishnav is not hostile witness and she has supported the

prosecution case and any analysis of her statement cannot be made for purpose of granting bail to these applicants. It is further submitted that applicant- Ravi Sidar has criminal antecedent and there are 28 previous cases registered against him. Similarly, applicant- Ankit Kumar Dwivedi is also one of the participant of the offence, on whose memorandum statement, recovery of revolver, vehicle and purse of the deceased, has been made, therefore, none of these applicants is entitled for grant of bail.

9. In reply, learned counsel for applicant- Ravi Sidar submits that according to his knowledge, applicant- Ravi Sidar has been acquitted in 10 of his previous cases, regarding other cases, he has no information. The prayer for bail is initiated only on this ground that after examination of main witnesses of the case, no chance of conviction against this applicant is left.
10. In reply, learned counsel for applicant- Ankit Dwivedi submits that the evidence of the prosecution is full of discrepancy because the case is concocted. Hence, this applicant may be granted bail.
11. Heard counsel for both the parties and perused the records.
12. Considered on the submissions and the facts present in this case. There is no need to go into the merits of the case, because merits have already been considered and orders have been passed in the previous orders with respect to these applicants. The change of circumstances that is claimed on the basis of the statement of witness, who has been examined before the trial

court, needs consideration.

13. Perused the certified copy of deposition of the Sukanti Vaishnav and it is found that she is not hostile witness, which means that the prosecution relies upon him. The discrepancy or any omission and contradiction will make her reliable witness or not, that shall be decided by the trial court itself. This Court while deciding application for grant of bail, cannot make any comment on the quality of the evidence before the trial court. The previous bail applications of these applicants, have been rejected on the basis of gravity of offence, which is alleged to have been committed by them. As regards to the matter of granting of bail to the other co-accused persons, on perusal of MCRC No. 5311/2018, 5785/2018 & 8017/2018, it is found that the accused persons namely Kundan Tiwari, Ashok Kumar Choudhary & Ganesh Narayan Uraon, who were granted bail, had totally different case, which was not in comparison of the case present against these applicants, therefore, I do not find any substance in these applications, hence, I do not feel inclined to grant bail to these applicants.
14. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. are liable to be and are hereby rejected.

Certified copy, as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge