

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 7128 of 2020

- Vinod Nishad, s/o Shri Toran Nishad, aged about 20 years 1 month, R/o Village- Umaria, Thana – Mandir Hasod, Tahsil and District - CG

---- Applicant (In Jail)

Versus

- State of Chhattisgarh Through the Police Station Mandir Hasod, District- Raipur, Chhattisgarh

---- Respondent

For Applicant	: Shri Sachin Singh Rajput, Advocate
For Respondent/State	: Shri Sidharth Dubey, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

15.12.2020

1. Applicant has preferred this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No.251 of 2020 registered at Police Station Mandir Hasod, District Raipur, CG for the offence punishable under Section 394/34 (Section 325 added in the Charge-sheet) of the IPC.
2. Case of the prosecution in brief is that on 20.07.2020 in between 7 – 10.30 pm, when complainant was going on road while driving Motorcycle, present applicant along with three other persons have assaulted him by means of Club. When complainant fell down, they snatched Nokia Mobile Phone and Rs.4,000/- from him, which was kept in a bag. Similar crime has been alleged to be committed by present applicant along with others on same day with one Yashwant Markande, by causing injury to him, robbed Rs.4,000/-. On the next day on the basis of complaint, present applicant was taken in custody on

suspicion and one Nokia Mobile Phone and Rs.1,500/- were seized from his possession.

3. Shri Sachin Singh Rajput, learned counsel for the applicant submits that present applicant has been falsely implicated in the case. Applicant is a young boy, aged about 20 years with no criminal antecedent; he has already suffered imprisonment for about five months. He may be extended benefit under Section 439 of the CrPC.

4. Shri Sidharth Dubey, learned Dy Government Advocate for the State opposing the submission made by learned counsel for the applicant submits that immediately on the next day of the incident, a Mobile Phone, Club and Rs.1,500/- have been seized from the possession of present applicant. He submits that applicant's active participation in the incident has been proved and hence he is not entitled for benefit under Section 439 of the CrPC. With regard to the criminal antecedent against the present applicant, he submits that there is no such mention against him as per material available with him.

5. I have heard learned counsel for the parties.

6. Considering the nature of allegations levelled against the applicant and further, the alleged offence said to be committed by him is triable by the Magistrate, he has already suffered imprisonment of five months and he being the first offender aged about 20 years, without commenting on merits of the case, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant be released on regular bail upon furnishing a bail bond in the sum of Rs.10,000/- (Rupees ten thousand) with one surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma