

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6980 of 2020**

Suraj @ Vikram Vaishnav S/o Om Vaishnav Aged About
20 Years R/o Ward No. 17, Lohiya Nagar, Baloda Bazar,
Thana And Tahsil- Baloda Bazar, Distt. Baloda Bazar-
Bhatapara, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through The Police Station- Thana-
City Kotwali Baloda Bazar, Distt. Baloda Bazar-
Bhatapara, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Deepak Jain, Advocate
For Non-applicant/State : Shri Ashish Tiwari, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****16.12.2020**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 28.06.2020 in connection with Crime No.402 of 2020 registered at Police Station City Kotwali, Baloda Bazar, District Baloda Bazar-Bhatapara, Chhattisgarh for commission of the offence punishable under Sections 147, 148, 149, 302, 120-B of the Indian Penal Code and 25, 27 of the Arms Act.

2. Case of the prosecution, in brief, is that on 27.06.2020, in the afternoon, when Bhagwati Yadav and Ishwar Kurre were roaming near the house of Bhagwati Yadav, Ishwar Kurre received a phone call from the applicant that he wanted to talk with his mother so please connect her. On this phone call, Ishwar Kurre and Bhagwati Yadav went to the house of present applicant at about 3.00 PM and connected mother of applicant on mobile. When mother of applicant went inside her house taking on mobile phone, suddenly, Iqbal Khan, Shahrukh Khan, Javed Khan, Raza Khan and Rahul Devar (Rahul Bharti) came there, assaulted Bhagwathi Yadav and given knife blows to him. In the said incident, Bhagwati Yadav suffered grievous injuries over his person and he succumbed to those injuries. Applicant was arrested on the basis of memorandum statement of Iqbal Khan and Shahrukh Khan.
3. Shri Deepak Jain, learned counsel for the applicant submits that implication of present applicant is only in the memorandum statement of Iqbal Khan and Shahrukh Khan and there is no material to connect the present applicant in the instant crime. He further submits that there is no material collected by the Investigating Officer like call details etc. to show that the applicant is having meeting of mind for commission of offence and prays for grant of bail to the present applicant.

4. On the other hand, Shri Ashish Tiwari, learned State Counsel opposes the prayer for grant of bail and submits that involvement of the applicant is apparent from the material available in the case diary as two of the co-accused have specifically named of present applicant showing his involvement in the crime. He further points out that mother of the applicant in her statement under Section 161 of the Cr.P.C. has stated that she received the phone call of present applicant over telephone.
5. I have heard learned counsel for the parties.
6. Taking into consideration the entirety of facts and circumstances of the case, particularly, nature of material collected by the Investigating Officer against the present applicant is only the memorandum statement of co-accused and no other evidence or material have been collected against him, I am inclined to release applicant on regular bail.
7. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) He 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

Yogesh