

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7268 of 2020**

Amit Surayvansi @ Lalu S/o Shri Aagman Lal Surayvansi,
aged about 54 years, R/o Village Kukda, Up-Tahsil Seepat,
District Bilaspur Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through The Station House Officer,
Police Station Seepat, Civil And Revenue District Bilaspur
Chhattisgarh.

---- Non-applicant

For Applicant : Shri K.P.S. Gandhi, Advocate

For Non-applicant/State : Shri Vikram Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****17.12.2020**

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 19.09.2020 in connection with Crime No.402 of 2020 registered at Police Station Seepat, District Bilaspur, Chhattisgarh for commission of the offence punishable under Section 392 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 12.09.2020, complainant while driving his truck after loading aluminum strips from Korba to Nagpur, had stopped his truck for night halt at Dhaniya Petrol Pump. In the night at about 1.00 AM, two persons came there, knocked the door of truck, when complainant woke up, they have stated that they are Police

persons. When complainant came out from the truck, present applicant on the point of knife, snatched his mobile phone of Vivo Company, asked for PhonePe code with him and ran away. Thereafter, he went to Nagpur and purchased a new SIM card and mobile. On his mobile phone, he received message of transfer of Rs.21,000/- and Rs.250/- twice, thereafter, he has lodged a complaint at Police Station Seepat, District Bilaspur. On the basis of number of motorcycle mentioned by the complainant in his complaint, present applicant was arrested and from his possession, mobile phone and motorcycle have been seized.

3. Shri K.P.S. Gandhi, learned counsel for the applicant submits that mobile phone which is said to be seized is of applicant, complainant has not placed on record any document to show that mobile seized from the possession of present applicant is of his own. One lighter in the design of pistol has also been seized. He pointed out that alleged transfer of Rs.21,000/- is not in the account of present applicant or to any shop within the vicinity where applicant resides, but it has been transferred in the bank account of Punjab National Bank. As per the *challan*, said amount has been returned by the Constable of Police Department after drawing from the said account. The statement of Constable has not been recorded by the Police, which itself shows that applicant has been falsely implicated in the case. It is contended that allegations levelled by the complainant

against the present applicant that the applicant has taken PhonePe code under the threat, but transfer of Rs.21,000/- in the code of UPI, which as per the norms of Securities and Exchange Board of India shows in short '@upi' for BHIM App, whereas the PhonePe transfer shows '@ybl'. It is lastly contended that present applicant has no criminal antecedent, hence, prayed that applicant may be enlarged on regular bail.

4. On the other hand, Shri Vikram Sharma, learned State Counsel opposes the prayer for grant of bail and submits that explanation has been given by the complainant for delay in lodging First Information Report i.e. due to some urgent work, he directly went to Nagpur and thereafter, he has lodged the complaint on 19.09.2020. He pointed out that on the basis of number of motorcycle supplied by the complainant, present applicant was arrested along with motorcycle and from his possession, mobile phone of complainant has been seized. It is contended that applicant is also identified by the complainant in the Test Identification Parade. He however submits there is document of the mobile phone to be in the name of complainant.
5. I have heard learned counsel for the parties.
6. Taking into consideration the totality of facts and circumstances of the case, particularly, nature of allegations levelled against the applicant and further considering that date of incident to be of 12.09.2020, whereas First Information Report has been

lodged only on 19.09.2020, the money said to have been transferred in the account of Constable of Police Department, no document has been shown of purchase of mobile phone, without commenting anything on merits of the case, 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