

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7200 of 2020**

- Uttam Kumar, son of Umashankar Sahu (Wrongly Mention in order sheet Ramashankar Sahu), aged about 19 years, resident of Sakri, Police Station - Mandir Hasaud, Raipur, District- Raipur (CG)

---- Applicant**Versus**

- State of Chhattisgarh, through Station House Officer, Police Station- Palari, District- Balodabazar - Bhatapara (CG)

---- Non-applicant

For Applicant	:	Mr. Arvind Kumar Dubey, Advocate
For Non-applicant	:	Mr. Siddharth Dubey, Dy. Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****16.12.2020**

1. This is first bail application of the applicant under Section 439 of the Code of Criminal Procedure, 1973 as he is in custody since 27.8.2020 in connection with Crime No.263/2020 registered at Police Station Palari, District Balodabazar Bhatapara (CG) for commission of the offence punishable under Sections 457, 380, 511 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 9.7.2020 FIR was lodged in the police station stating that on 6.7.2020 at about 22.57 hrs two persons had attempted to steal cash by breaking open ATM machine of State Bank of India, Rohansi. On the basis of secret information, co-accused Tikam was arrested and on the basis of his memorandum statement, present applicant was arrested in connection with instant crime.
3. Mr. Arvind Kumar Dubey, learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the instant

crime/offence. Applicant has not committed the offence as alleged against him. There is absolutely no material available in the case diary indicating that it is the present applicant who along with co-accused Tikam has committed the crime in question. He also submits that in the final report it is mentioned that two persons have tried to commit the offence, however, since they have covered their face with cloth, there is no identification of accused persons in the CCTV footage. The applicant is a boy of tender age of 19 years, he is not having any criminal antecedent and he is in jail since 25.8.2020. Hence, the applicant may be enlarged on bail.

4. On the other hand, Mr. Siddharth Dubey, learned Deputy Government Advocate for the State opposes the submissions made by learned counsel for the applicant and submits that co-accused has specifically named present applicant in his memorandum statement that present applicant was also involved in commission of offence. In support of his submissions, learned counsel also referred to the statement recorded under Section 161 of CrPC.
5. I have heard learned counsel for the parties.
6. After hearing submissions of the parties, when this Court pin pointedly asked from learned State Counsel about criminal history of present applicant, after going through the case diary, he submits that there is no such mention in the case diary available with him.
7. Taking into consideration the entirety of facts and circumstances of case, nature of allegation, material collected by the Investigating Agency against present applicant, without commenting anything upon the merits of case, I am inclined to enlarge the applicant on regular bail. Accordingly, the bail 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

roshan/-