

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1656 of 2019

- Krishna Kumar Sharma S/o Parmanand Sharma, Aged About 40 Years, R/o 12/40 Mother Teresa Nagar, 18 No. Road, Camp - 1, Bhilai, Tahsil and District Durg, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through- Station House Officer, Police Station- Mohan Nagar, District- Durg Chhattisgarh.

---- Respondent

For Applicant : Shri Amiyakant Tiwari, Advocate.

For Respondent/State : Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

09/01/2020

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 323/2019 registered at Police Station Mohan Nagar, District – Durg, (C.G.) for the offence punishable under Sections 294, 506, 323, 324, 327, 34 of Indian Penal Code.
2. The prosecution story, in brief, is that on 21.09.2019 at around 7:15 PM when Devendra Ramteke was sitting in his shop, the present applicant and co-accused Rajesh Tiwari who were also working in the shop of Devendra Ramteke (victim), visited his shop and demanded money for consuming liquor to which Devendra denied, and, thereafter, some dispute took place between them. It is alleged that, thereafter, present applicant assaulted Devendra with hand and fists and co-accused Rajesh Tiwari assaulted him with one sharp edged object i.e. paper cutter due to which victim sustained injuries on his

neck. Report has been lodged by one Nitish Kashyap and on the basis of the said, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that, *prima facie*, no case under Section 327 of I.P.C. can be made out against present applicant. Main accused Rajesh Tiwari has already been granted regular bail by this Court vide order dated 19.12.2019 passed in MCRC No. 7068/2019. Therefore, it is prayed that applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application and submits that during course of investigation and after the opinion of the treating Doctor, offence under Section 307 of I.P.C has been added on 21.10.2019. Therefore, anticipatory bail application should be rejected.
5. However, learned Counsel for applicant submits that while deciding the bail application of co-accused Rajesh Tiwari, the fact regarding adding of offence under Section 307 of I.P.C. was not raised nor any objection was made regarding the same. Allegedly, the injuries sustained to the victim is caused by co-accused Rajesh Tiwari.
6. I have heard learned Counsel appearing for the parties and perused the material available with due care.
7. Taking into consideration the submissions put-forth on behalf of the parties and further considering the facts and circumstances of the case, evidence collected by the prosecution and further considering the fact that applicant has only assaulted the victim with hand and fists, co-accused Rajesh Tiwari has already been granted regular bail by this Court vide order dated 19.12.2019 passed in MCRC No. 7068/2019, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.
8. Accordingly, the bail application is allowed.

9. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge