

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 303 of 2021**

- Vijay Sen, S/o Ramayan Sen, Aged About 30 Years R/o. Village Parsatti, Chowki Karelibaldi, Police Station Magarlod, District : Dhamtari, Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh, Through - Station House Officer, Police Station City Kotwali, District - Dhamtari, Chhattisgarh

---- Respondent

For Applicant	:	Ms. Aditi Singhvi, Advocate.
For State	:	Dr. Veena Nair, Dy. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****24/05/2021**

Heard.

1. There is repeat application for grant of bail. Earlier application was rejected with liberty to revive after receipt of FSL report.
2. The applicant has moved this application for grant of bail as he is arrested in connection with Crime No.488/2019 registered at Police Station- City Kotwali, District- Dhamtari, C.G. for the alleged commission of offence under Sections 302, 120-B read with Section 34 of IPC.
3. Case of the prosecution is that the deceased Deepak and co-accused Santoshi Sen had a dispute as Deepak was objecting to alleged illicit relation of Santoshi Sen with third person as Santoshi Sen was the stepmother of Deepak Sen. It is alleged that because of this dispute, with a motive to eliminate Deepak, Santoshi Sen took help of her father Radheshyam Sen, co-accused and Vijay and Yuvraj were hired to kill Deepak.
4. Learned counsel for the applicant would submit that earlier bail application was rejected with liberty to revive after receipt of FSL report and the involvement of the applicant was alleged to be stained with blood. It is submitted that now FSL report has come and in the FSL report, pant and shirt allegedly seized from the possession of the applicant are said to be stained with blood

and there is no report that this was found to be human blood much less of that of the group and origin of that of the deceased. Except this, it is argued, there is no other evidence collected by the prosecution which would lead to conviction of the applicant in the alleged commission of offence. Learned counsel for the applicant would further submit that now at this stage, memorandum and seizure witnesses have also been examined and they have not supported the prosecution case therefore, even seizure of shirt and pant from the applicant itself become highly doubtful. As the applicant is in jail since 19.11.2019, at this stage, he may be granted bail particularly when other co-conspirators namely Santoshi Sen and Radheshyam Sen have been granted bail.

5. On the other hand, learned State Counsel opposes and submits that the applicant is being hired for commission of serious offence of murder. It is argued that at this stage, number of prosecution witnesses are yet to be examined which also includes left over witnesses of memorandum and seizure and therefore, if some of the witnesses of seizure and memorandum have not supported, at this stage, it cannot be said that the prosecution has failed to lead any evidence of seizure. Next submission is that though in the FSL report, there is no mention of the human blood, presence of blood in the clothes of the applicant makes out prima facie a case of involvement particularly when according to the prosecution, the applicant is alleged to have been hired by Santoshi Sen and Radheshyam Sen to murder of Deepak.
6. I have heard learned counsel for the parties and also taking into consideration the material contained in the case diary and the charge sheet as disclosed before this Court during the course of argument by learned counsel for the parties.
7. The involvement of the applicant in the present case is based mainly on circumstantial evidence as there is no direct evidence. The prosecution alleges that pant and shirt worn by the applicant were found stained with the blood. However, FSL report does not even show that blood was that of the human much less that of the group and origin of the deceased. The charge sheet against the applicant does not come out with direct evidence of eyewitnesses or recovery of any other incriminating article or last seen. As far as motive part is concerned, the motive alleged against co-accused Santoshi Sen and Radheshyam Sen and both of them are alleged to be co-conspirators have been granted bail by this Court. The applicant is in jail since 19.11.2019, therefore, at this stage, this Court is inclined to grant bail to the

applicant.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with two local sureties of the like amount to the satisfaction of the Trial Court on the condition that-

a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

b) He shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)
Vacation Judge

Ravi