

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1204 of 2021

1. Sheikh Danesh @ Sheikh Azhar S/o Sheikh Zafar Ali Aged About 30 Years (As Mentioned In The Charge Sheet) R/o Finland Topsia, Police Station Telbala, District Kolkata, West Bengal, Presently Residing At Idgah Bhata, Behind Muslim Hall, Police Station, Azad Chowk, Raipur (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through P.S. Azad Chowk, Raipur, District Raipur (C.G.).

---- Non-Applicant

For Applicant : Mr. Manish Nigam, Advocate.

For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

08/06/2021

- 1) This is the **Third Bail Application** filed under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. The First Bail Application i.e. MCRC 1319/2019 was rejected on merits on 06/03/2019 and the Second Bail Application i.e. MCRC No. 1338/2020 was also rejected on merits on 22/06/2020.
- 2) The applicant is arrested on 19/07/2018 in connection with Crime No. 167/2018 registered at Police Station Azad Chowk, Raipur, District Raipur (C.G.) for the offence under Section 394, 395 & 397 of IPC.
- 3) Case of the prosecution, in brief, is that on 15/07/2018, complainant Prashant Sharma had collected an amount of Rs. 31,33,950/- from Wine shops. He kept the said amount in his bag. When he was going to deposit the said amount in the office of Rider Save Guard Private Company, Sundernagar, at that time,

some unknown persons stopped his motorcycle and snatched the bag and one mobile bearing SIM No. 8878971117 from him. They also caused injury to him. On the memorandum of the applicant, one Air Gun, one mobile and one black bag of the said company containing Rs. 3,00,000/- were seized from him.

- 4) Learned counsel for the applicant submits that applicant is an innocent person and has been falsely implicated in this case. He submits that there is no eye witness to the incident and only on the basis of memorandum of the applicant, he has been implicated in this case. The witnesses to the memorandum and seizure have not supported the prosecution case. He submits that the applicant is in jail since 19/07/2018, out of 29 prosecution witnesses only 09 witnesses have been examined so far and conclusion of trial is likely to take some time for its disposal. He submits that similarly situated co-accused namely Imran Ahmed Ansari and Rakesh Dewangan have been granted bail by the Co-ordinate Bench of this Court vide order dated 18/01/2021 in MCRC No. 9089/2020 and MCRC No. 8674/2020 respectively and other co-accused namely Sheikh Amzed has also been granted bail by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) Nos(s). 3804/2020 on 27/10/2020. Therefore, the applicant deserve to be released on bail.
- 5) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, in particular the detention period of the applicant who is 30 years old i.e. about 2 years and 11 months, delay in trial and the fact that due to COVID-19 Pandemic there is no likelihood of early disposal of the trial, the fact that similarly situated co-accused Sheikh Amzed has already been granted bail by the Hon'ble Supreme Court and there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel, without commenting

anything on merits of the case, the application is **allowed**. It is directed that the applicant shall be enlarged on bail subject to the condition that he shall have to appear before the concerned Police Station between 11:00 AM to 12:00 Noon once in a week. The trial Court may impose any other condition as it may deem fit upon the applicant.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant