

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.1334 of 2021

- Anand Kumar @ Alok Dubey @ Tiger, son of Girdharir Dubey, aged about 27 years, R/o village Machiyakala, Police Station & District Chandoli (UP)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through The Station House Officer of Police Station- Pulgaon, District- Durg (CG).

....Non-applicant

For Applicant	:	Mr. TK Jha, Advocate
For Non-applicant	:	Mr. BP Banjare, Dy. Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

12.7.2021

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 14.1.2021 in connection with Crime No.468/2019 registered at Police Station Pulgaon, District Durg (CG) for commission of offence punishable under Sections 392, 397, 395, 307, 212, 120B of the Indian Penal Code and Section 25 & 27 of the Arms Act.
2. The prosecution story, in brief, is that on 26.9.2019 at about 10:00 p.m. Umesh Kumar Verma, Supervisor of Jevra-Sirsa Country-made Liquor shop, was returning his house with Rs.1,50,000/-, which was the sale collection amount of liquor shop. When Umesh Verma reached near village Kuntelabhata, three unknown persons stopped his motorcycle and on the gun point, took out key of motorcycle, snatched his

mobile phone and bag in which cash of Rs.1,50,000/- was kept. One accused person fired gun shot at Umesh Verma as a result he sustained injury on stomach. Thereafter, the accused persons ran away from the spot. Next day, one Harjinder Singh lodged complaint in the concerned police station based upon which instant crime is registered against present applicant and others.

3. Mr. TK Jha, learned counsel for the applicant submits that victim Umesh Verma has stated that three persons, who had covered their face with cloth, had stopped and looted him, but test identification parade of accused persons has not been conducted by the prosecution. He further submits that present applicant has been made accused only on the basis of recovery of cash of Rs.7,000/- and one old mobile at the instance of present applicant pursuant to his memorandum statement dated 2.10.2019. He further submits that the prosecution has cited as many as 36 witnesses to prove its case, but Dipanshu Joshi & Shivam Pandey, who have been shown to be the witnesses of seizure memo by which alleged cash and old mobile are seized from possession of present applicant, are not cited as witnesses in the final report, which is placed on record by him along with covering memo on 9.4.2021. He further argued that co-accused Vijay Verma has been enlarged on bail by co-ordinate Bench in M.Cr.C. No.375/2020 and case of present applicant is also on similar footing. The applicant is in jail since 4.10.2019 and there is no criminal antecedent against present applicant. Hence he may

be released on regular bail.

4. Per contra, Mr. BP Banjare, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that present applicant along with co-accused persons is actively involved in crime. On the basis of memorandum statement of present applicant, cash of Rs.7,000/- and one mobile was seized from his possession. On a specific query being asked by the Court as to whether test identification parade of accused persons, who have covered their face with cloth at the time of commission of crime, was conducted or not, learned State Counsel submits that no such document is available in the record. Learned State Counsel admits that Dipanshu Joshi & Shivam Pandey have not been cited as witnesses in the list of witnesses attached with the final report. On putting a specific query with regard to criminal antecedent of present applicant, he submits that information relating to criminal antecedent of present applicant was sought for, but the same is not available in the case diary. He has not disputed the copy of order dated 27.2.2020 in M.Cr.C. No.375/2020, which was placed on record by learned counsel for the applicant, by which co-accused Vijay Verma has been released on regular bail. However, he submits that co-accused Suresh Kumar Verma's application has been withdrawn as motorcycle bearing registration number CG07-AY-6389 seized from his possession is said to have been used in commission of crime in question.
5. I have heard learned counsel for the parties.

6. Taking into consideration the nature of allegations levelled against present applicant, manner in which crime in question is said to have been committed by accused persons i.e. by covering their faces with cloth; no test identification parade of accused persons was conducted in the course of investigation, the applicant is in jail since 4.10.2019, there is no criminal antecedent against present applicant, co-accused Vijay Verma has been granted regular bail by Co-ordinate Bench vide order dated 27.2.2020 in M.Cr.C. No.375/2020, without commenting anything on merits of the case, I am inclined to allow this bail application.
7. Accordingly, the application is allowed and it is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- 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 & every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) If 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/-