

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1508 of 2021**

Paras @ Pankaj Omkar S/o Shri Suresh Omkar, Aged About 19 Years, R/o Near Kalimurti Changorabhatha, Police Station D.D. Nagar, Tahsil And District Raipur Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through Station House Officer, Police Station D.D. Nagar, Tahsil And District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Shobhit Mishra, Advocate

For Non-applicant/State : Shri Shrikant Kaushik, Panel Lawyer

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**07.07.2021**

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 29.10.2020 in connection with Crime No.386 of 2020 registered at Police Station D.D. Nagar, Tahsil and District Raipur (C.G.) for commission of offence punishable under Sections 307, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 28.10.2020, at about 6.30 PM, the complainant Tarun Dewangan alias Ballu was standing near Baba Anaj Bhandar at Raipura Chowk along with his daughter Ku. Deepti Dewangan and two others, namely, Pintu and Nanu who are resident of their colony. At that time, three unknown persons came on motorcycle and demanded Rs.500/- from Pintu and Nanu, to which, the complainant Tarun Dewangan

objected as to why he is giving them the money demanded by unknown persons, upon which, unknown persons assaulted him and two persons caught hold of him and one person has given blow by means of knife on his chest, private part and left thigh. After suffering injuries, complainant escaped from the place and thereafter, three unknown persons fled away from the spot on motorcycle. The incident was reported to concerned Police Station, based upon which, FIR was registered against unknown persons. On the basis of statement recorded under Section 161 of the Cr.P.C. of one Ravi Thakur, Hemant Nishad was arrested and thereafter, on the basis of memorandum statement of Hemant Nishad, present applicant along with Bhavesh Thakur and Hemraj Patel were arrested in the instant crime.

3. Shri Shobhit Mishra, learned counsel for the applicant submits that present applicant has been falsely implicated in the case and applicant was not present at the place of incident, he never participated in any of the crime as alleged against him. He further submits that complaint has been lodged against unknown persons, FIR was registered against unknown persons and during the course of investigation, statement of one Ravi Thakur who said to be standing at shop i.e. near the place of incident has stated the name of one Hemant Nishad, based on the information given to him by the owner of the betel shop. It is contended that though the complainant in the FIR has mentioned that he will identify the accused persons upon seeing, but no identification parade has been held. It is further contended that on the basis of

memorandum statement of co-accused, the applicant has been implicated in the instant crime. There was no seizure of any incriminating article from the possession of present applicant. The complainant has executed affidavit stating the applicant is not involved in the incident. He further pointed out that the applicant is in jail since 29.10.2020 and the trial may take some time, therefore, applicant be enlarged on bail.

4. On the other hand, Shri Shrikant Kaushik, learned State Counsel opposes the prayer for grant of bail and submits that though the FIR has been registered against the unknown persons, but during the course of investigation, based on the statement of Ravi Thakur recorded under Section 161 of the Cr.P.C., he named Hemant Nishad, who gave blow of knife to the complainant. He further submits that in the memorandum statement of main accused Hemant Nishad, name of three other accused persons have been mentioned, as such, there is involvement of present applicant in the instant crime, hence, present applicant is not entitled for grant of bail at this stage.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, particularly, the fact that the FIR has been lodged against the unknown persons, the identification parade of accused persons has not been held, applicant has been made accused only on the basis of memorandum statement of Hemant Nishad, applicant is in jail since 29.10.2020 and the trial may take

some time, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.

7. Accordingly, the 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.25,000/- (Rupees Twenty Five Thousand only) with one local 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