

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2921 of 2021

Raza Khan S/o Razak Khan Aged About 23 Years R/o Lohiya Nagar,
Balodabazar, P.S.- Balodabazar, District- Balodabazar- Bhatapara,
Chhattisgarh, District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station- City
Kotwali, Balodabazar, District- Balodabazar, Chhattisgarh., District :
Balodabazar-Bhathapara, Chhattisgarh

---- Respondent

For Applicant	:	Shri Shailendra Dubey, Advocate
For State	:	Shri Lalit Jangde, Dy. Govt. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

27/08/2021

Heard.

1. This is the second bail application on behalf of the applicant. His earlier bail application was dismissed as withdrawn.
2. The applicant is arrested in connection with Crime No.402/2020 registered in Police Station- City Kotwali, District- Baloda Bazar (CG) for alleged commission of offence under Sections 147, 148, 302/149, 120-B IPC and Sections 25-27 of the Arms Act.
3. Case of the prosecution, in brief, is that the applicant and another co-accused are involved in assault and murder of one Bhagwati Yadav.
4. Learned counsel for the applicant would submit that the applicant has been falsely involved in the case which is revealed after examination of the so called

eyewitnesses of the case namely Dilip Sen and Ishwar Kurre. Learned counsel for the applicant submits that these witnesses have been examined in the Court and their evidence clearly shows that the present applicant was not involved in the alleged commission of offence as both the witnesses have not stated regarding applicant's role in the alleged commission of offence. Except this, there is no other incriminating circumstantial evidence connecting the applicant with the alleged commission of offence. Therefore, at this stage, when most material witness namely eyewitnesses have been examined, the applicant may be released on bail.

5. On the other hand, learned counsel for the State opposed the application and submits that though initially, Dilip Sen did not involve the applicant in his examination-in-chief, but later on, when he was declared hostile, he admits that while giving statement to the police, he involved the applicant also. Therefore, the evidence is required to be appreciated by learned trial Court and it cannot be said to be case of no evidence.
6. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the submission of learned counsel for the applicant regarding the evidence of so called eyewitnesses - Dilip and Ishwar having already been recorded by learned trial Court and further submission that these witnesses have not involved the present applicant, at this stage, I am inclined to allow the application.
7. The application is accordingly 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/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:-
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Manindra Mohan Shrivastava)
Judge