

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5238 of 2021

- Syed Kadir Ali, S/o Syed Imran Ali, Aged About 22 Years, R/o Rajendra Nagar, Near Main Post Office, Bilaspur, District Bilaspur, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through - Station House Officer, Police Station Tarbahar, District- Bilaspur, Chhattisgarh.

---- Non-Applicant

For Applicant : Shri Atul Kumar Kesharwani, Advocate

For Non-Applicant/State : Shri Anand Verma, Dy. G.A.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

29.09.2021

Heard.

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 22.05.2021 in connection with Crime No. 368/2019, registered at Police Station- Tarbahar, District- Bilaspur (C.G.) for the offence punishable under Sections 294, 307, 34 of IPC.
- 2) Case of the prosecution, in brief, is that on 19.12.2019 at about 8.00 pm the complainant Gaurav Naidu alongwith Mattu & Manish Kumar went near CMD college for smoking at that time the present applicant reached there alongwith co-accused persons, due to old enmity they started abusing the victim Manish Kumar filthily and assaulted with knife on his vital part abdomen & chest, as a result of which the victim sustained injuries.
- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further

submits that the co-accused person has already been granted bail by the trial Court. The necessary ingredients as described under Section 307 of IPC are missing, charge-sheet has already been filed. Victim was discharged from the hospital within short span of time, there is no likelihood of the applicant tampering with the prosecution evidence or absconding. The applicant is in jail since 22.05.2021 and trial is likely to take some time for disposal. Therefore, the applicant be released on bail by this Court.

- 4) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application.
- 5) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation made against the present applicant, the nature of injuries sustained by the victim, the fact that victim was discharged from the hospital after primary treatment at District Hospital Bilaspur on 19.12.2019 he was referred to CIMS Bilaspur for further treatment where he remained admitted till 20.12.2019, thereafter, he was admitted in SECR Medical department on 20.12.2019 till 01.01.2020, further, the victim was admitted in Apollo Hospital Bilaspur on 01.01.2020 and discharged on 03.01.2020, the victim remained hospitalized for about 15 days in different hospitals i.e. CIMS, SECR Hospital & Apollo Hospital, Bilaspur and discharged without any complication, co-accused has already been granted bail by the trial Court, the detention period of the applicant, who is 22 years, charge-sheet has already been filed, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 6) It is directed that in the event of the applicant executing a personal bond for a sum of Rs. 2,00,000/- with two sureties of

Rs. 1,00,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail, on following conditions :-

(i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,

(ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,

(iv) he shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

(v) he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-
(Gautam Chourdiya)
Judge

Nadim