

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5894 of 2021

- Shiv Kumar @ Shiva Nishad, S/o Shri Radhe Shyam Nishad, Aged About 23 Years, R/o Ward No. 47, Near Mohara Talab, P.S.- Basantpur, District : Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Basantpur, District : Rajnandgaon, Chhattisgarh.

---- Non-Applicant

For Applicant : Shri Devershi Thakur, Advocate

For Non-Applicant/State : Shri Adil Minhaj, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

06.09.2021

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 21.12.2020 in connection with Crime No.480/2020, registered at Police Station- Basantpur, District- Rajnandgaon (C.G.) for the offence punishable under Sections 120-B, 364, 302, 201, 34 of IPC.
- 2) Case of the prosecution, in brief, is that the present applicant alongwith co-accused persons hatched a conspiracy to commit murder of the deceased- Tikeshwar and in execution thereof co-accused Ram Narayan called the deceased at Atal Awas of village Mohara where all the accused persons including the deceased consumed liquor and after some time an altercation took place between accused Ram Narayan and the deceased. At

this point of time Ram Narayan started assaulting the deceased by means of wheel spanner (*pana*) and seeing this Chandan and present applicant ran away from the place of occurrence. The dead-body was thrown in Shivrath river on 12.12.2020.

- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that applicant was not involved in the alleged commission of offense, there is nothing on record against the applicant except memorandum statement of the co-accused Shyamu Nishad, no recovery of any incriminating article has been made from the applicant, charge-sheet has already been filed. The similarly situated co-accused Ajay @ Chandan has already been granted bail by the co-ordinate Bench of this Court vide order dated 07.07.2021 in MCRC No.2739 of 2021, the applicant has no criminal antecedents, there is no likelihood of his tampering with the prosecution evidence or absconding. The applicant is in jail since 21.12.2020 and due to COVID-19 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, except memorandum statement of co-accused persons there is no other evidence against the present applicant, no recovery of any incriminating article has been made from him, the similarly situated co-accused person has already been granted bail by the co-ordinate Bench of this Court, charge-sheet has already been filed, the detention period of the applicant, who is 23 years old and there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsel and due to COVID-19 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.50,000/- with one surety in the like amount to the satisfaction of the 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