

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 5848 of 2021

Sabir Khan S/o Moh. Gaffar Khan Aged About 21 Years R/o Ward No. 7, Infront Of Electricity Office, P.S.- Dharsiwa, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station- Berla, District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh

---- Respondent

For Applicant	:	Shri Subham Tripathi, Advocate.
For Non-applicant	:	Shri Kapli Maini, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

ORDER

27/10/2021

1. Applicant has filed this application under Section 439 CrPC for grant of regular bail as he has been arrested in connection with Crime No. 153/2021 registered at Police Station- Berla, District Bemetara (C.G.) for the offence punishable under Sections 395, 341, 120-B of IPC.
2. As per case of prosecution, on 28.4.2021 in the night at about 8:30 pm, when complainant was travelling on his motorcycle, three persons including the present applicant came on motorcycles. One of them stopped the motorcycle and obstructed the way of complainant. The applicant and other two co-accused persons have threatened him to handover his belongings, upon which, the complainant handed over his driving licence, cash of Rs.2,000/-

and thereafter all the three accused-persons fled away from the spot. While going, the accused persons have also taken key of motorcycle of the complainant. The incident was reported to the concerned police station. Based upon which, the offence is registered against unknown persons.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in the case. He has not committed any offence as alleged against him. Complaint is lodged against unknown persons. There is no test identification parade conducted by the police. No incriminating article has been seized from possession of the applicant except the alleged seizure of knife. The applicant is in jail since 1.5.2021. Hence he may be enlarged on regular bail.
4. Learned counsel for the State, opposing the submissions made by learned counsel for the applicant, would submit that in the night of alleged incident in this case, two other incidents was reported to the concerned police station, based upon which, two other crimes were registered for commission of similar offence and in one of the crime, offence under Sections 395 and 307 IPC is also registered. He also submits that there are as many as nine criminal antecedents against the applicant and there is seizure of knife from his possession which is alleged to have been used in commission of crime. However, he does not dispute the submission made by learned counsel for the applicant that there was no test identification parade of the applicant and except seizure of knife from the possession of applicant, there is no other seizure made from his possession. He further submits that in the

memorandum statement, the applicant has admitted his guilt. Hence, the applicant is not entitled to benefit of grant of bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegations, the fact that alleged offence has been stated to have been committed in the night, there is no test identification parade conducted by police to identify the applicant to be one of the accused persons involved in commission of offence as alleged in the FIR, no seizure of any incriminating article from the possession of the applicant was made and that he is in jail since 1.5.2021, without commenting anything on merits, I am inclined to allow the bail application.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon furnishing a bail bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the Court on the conditions that-
 - a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge