

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6887 of 2020**

Yogesh Kumar Dhiwar S/o Shri Omprakash Dhiwar, aged about 20 Years, R/o Amariya, Police of Police Station Mandir Hasoud, District Raipur Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police of Police Station Mandir Hasoud, District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Shri C.P. Lahrey, Advocate

For Non-applicant/State : Shri Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****04.01.2021**

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 21.07.2020 in connection with Crime No.251 of 2020 registered at Police Station Mandir Hasoud, District Raipur, Chhattisgarh for the offence punishable under Sections 394, 325 r/w 34 of the Indian Penal Code.
2. Case of the prosecution in brief is that on 20.07.2020 in between 7 – 10.30 pm, when complainant was going on road while driving Motorcycle, present applicant along with three

other persons have assaulted him by means of Club. When complainant fell down, they snatched Nokia Mobile Phone and Rs.4,000/- from him, which was kept in a bag. Similar crime has been alleged to be committed by present applicant along with others on same day with one Yashwant Markande, by causing injury to him, robbed Rs.4,000/-. On the next day, on the basis of complaint, present applicant was taken in custody on suspicion and one Nokia Mobile Phone and Rs.1,500/- were seized from his possession.

3. Shri C.P. Lahrey, learned counsel for the applicant submits that present applicant has been falsely implicated in the case. Applicant is a young boy aged about 20 years. First Information Report was lodged against four unknown persons. There is no criminal antecedent against present applicant and he is languishing in jail since 21.07.2020. Co-accused is enlarged on bail by this Court and case of the applicant is on same footing.
4. On the other hand, Shri Siddharth Dubey, learned State Counsel opposes the prayer for grant of bail and submits that one Nokia Mobile Phone, Rs.1,500/-, Driving Licence, PAN Card, Voter ID Card, ATM Card of Central Bank, Adhaar Card and Pass Book have been seized from the possession of present applicant, which shows the involvement of present applicant in the aforementioned crime, hence, present

applicant is not entitled for benefit under Section 439 of the Cr.P.C.

5. I have heard learned counsel for the parties.
6. Considering the nature of allegations, age of the applicant, pre-trial detention and further considering that the case is triable by the Magistrate, there is no previous criminal antecedent of the applicant and co-accused is enlarged on bail vide order dated 15.12.2020 in MCRC No.7128 of 2020, I am inclined to release 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.10,000/- (Rupees Ten Thousand) with one 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