

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7059 of 2020

- Deepak Kumar Besra, S/o Vishnu Ram Besra, aged about 24 years, R/o. Village Mardapal P.S. Mardapal, District-Kondagaon (CG).

---- Applicant

Versus

- State of Chhattisgarh, Through The Police Station Nagarnar, District Bastar (CG)

---- Non-applicant

For Applicant	:	Mr. P.K. Tulsiyaan, Advocate
For Non-applicant	:	Mr.Vikram Sharma, Dy.Govt.Advocate

Hon'ble Mr. 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 12.9.2020 in connection with Crime No.147/2020 registered at Police Station Nagarnar, District Bastar (CG) for commission of the offence punishable under Sections 302, 115, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 11.9.2020 at 6.45 p.m. complainant Baliram Das saw two persons assaulting his brother Harilal by means of club and thereafter they ran away. He lodged complaint in concerned police station based upon which instant crime has been registered. During the course of investigation, on identification of co-accused Mehrangu by the complainant, he was arrested from road side. Memorandum

statement of Mehrangu was recorded based on which other three accused persons including present applicant have been arrested.

3. Mr. P.K. Tulsiyaan, learned counsel for the applicant submits that applicant is working as Driver of co-accused Harichand Das Manikpuri for driving his Bolero Jeep. He was not aware about any connivance between Harichand Das and Mehrangu & Dipak Bhoir of committing murder of Harilal. Under instruction of Harichand Das Manikpuri, present applicant drove vehicle and dropped co-accused Mehrangu & Dipak in village Mardapal and thereafter returned back. Police has not collected any material showing connivance of present applicant with other co-accused persons for committing instant crime. He submits that applicant is innocent, he is in jail since 12.9.2020, he is young person of 24 years and not having any criminal history.
4. Mr. Vikram Sharma, learned Deputy Government Advocate opposes submissions made by learned counsel for applicant and submits that in memorandum statement present applicant has confessed his guilt and stated that Harichand Das Manikpuri told him about commission of crime by other two accused persons namely Mehrangu Korram and Dipak Bhoir. Involvement of present applicant in offence in question is apparent from the materials available in case diary, hence applicant is not entitled for benefit under Section 439 of CrPC.
5. I have heard learned counsel for the parties.
6. Considering the nature of allegations against present

applicant, merged intimation recorded on the basis of complaint made by complainant Baliram Das, who is brother of deceased and said to be an eyewitness of incident, memorandum statement of co-accused persons and further considering that applicant has no criminal past, without commenting anything on merits of case, 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/- 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 applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.
8. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-