

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.7156 of 2021**

- Munna ram S/o Mohanram, aged about 32 years, Caste Turi, R/o Nandawa Gopalganj, Bihar, Temporary Residence- Village Gadakata, Police Station and Tahsil Kunkuri, District Jashpur (CG)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station- Outpost Kardega, PS-Tapkara, District Jashpur (CG)

....Non-applicant

For Applicant	:	Mrs. Indira Tripathi, Advocate
For Non-applicant	:	Mr. Srikant Kaushik, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****09.12.2021**

1. This is first application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant as he is in custody since 29.9.2019 in connection with Crime No.91/2019 registered at Police Outpost Kardega, Police Station Tapkara, District Jashpur (CG) for commission of offence punishable under Sections 506 Part-2, 120B, 450, 395, 307, 149 of IPC and Section 25 & 27 of Arms Act.
2. Case of prosecution is that on 27.9.2019 at about 11:30 p.m. three persons knocked door of house of injured Samaru Ram, when he opened door, three accused persons entered into house. Accused persons have covered their faces. After opening of door, when complainant was going to his brother's house situated adjacent to his house, one of accused caught hold of his hand, he flashed torch towards him whereupon one of accused persons caused knife injury on his abdomen. Meanwhile, some villagers came there upon which accused persons started fleeing from spot. Villagers have followed accused persons and in the light of torch, they identified applicant, who was chased upto some distance and thereafter caught sleeping in verandah of a shop. Memorandum statement of applicant was recorded and he was arrested. Subsequently, co-accused Shivkumar was also arrested in

aforementioned crime.

3. Mrs. Indira Tripathi, learned counsel for applicant would submit that applicant has been falsely implicated in aforementioned crime. At the time of alleged incident, applicant was not present on spot. Applicant was not identified by any one though in charge sheet he has been shown to be identified by some villagers and witnesses while he was running away from spot, but the witnesses examined by prosecution before the Court below have not supported case of prosecution and admitted that they have not seen applicant running away from spot. There is no material in charge sheet which connects applicant with crime in question. She submits that injury, if any, suffered by complainant is simple in nature and complainant was not hospitalized for even a single day. Applicant is in jail since 20.9.2019, hence he may be enlarged on regular bail.
4. On the other hand, Mr. Srikant Kaushik, learned Panel Lawyer for the State opposes the submissions of learned counsel for applicant and submits that immediately after incident, villagers caught applicant lying in verandah of a shop. Villagers have identified applicant while he was running away from spot after committing crime. Applicant in his memorandum statement admitted his guilt. Witnesses to memorandum statement were examined before the trial Court, their deposition sheets are part of bail application, in which they have stated that in their presence applicant admitted his participation in instant crime. One knife is also seized at the instance of applicant from open place. He referred to evidence of PW-2 recorded by trial Court, which is placed on record, particularly the portion where PW-2 has deposed that he identified applicant. He also read out evidence of other witnesses in support of his contention.
5. At this stage Mrs. Tripathi, learned counsel for applicant would submit that though it has come in evidence of injured (PW-2) that he saw applicant running away from spot but in cross-examination he did not support case of prosecution and stated that he could not able to see applicant running away from spot.

One witness has stated that applicant was caught while he was sleeping in verandah of a shop and not from the place of incident, as alleged by other prosecution witnesses.

6. I have heard learned counsel for the parties.
7. Having regard to facts and circumstances of case, nature of allegation; material available in charge sheet as well as evidence as appearing from deposition sheets of witnesses filed by applicant along with covering memo, I am not inclined to enlarge applicant on regular bail. Accordingly, bail application is rejected

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-