

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8611 of 2021

- Sukhchand Yadav, S/o Rajaram Yadav, Aged About 18 Years 6 months, R/o Mathpara, Police Station and Tahsil-Kawardha, District – Kabirdham, Chhattisgarh. **---- Applicant**

Versus

- State of Chhattisgarh, Through- District Magistrate, Kawardha, District – Kabirdham, Chhattisgarh. **---- Non-Applicant**

For Applicant	: Shri Praful Bharat, Senior Advocate with Shri Dharmesh Srivastava, Advocate
For Non-Applicant/State :	Smt. Binu Sharma, Panel Lawyer

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

16.12.2021

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 14.10.2021 in connection with Crime No. 805/2021, registered at Police Station- Kawardha, District- Kabirdham (C.G.) for the offence punishable under Sections 294, 307 & 506-B of IPC.
- 2) Case of the prosecution, in brief, is that complainant Asif Ansari lodged report in Police Station Kabirdham to the effect that on 03.10.2021 at about 4-5 pm when he was coming back from his friend's house, he saw that there was a mob in the colony and they were fighting with each-other. One person from the said mob, who used to sell Potato-Onion, started abusing him, assaulted him on his head with a club, as a result of which, the complainant sustained injuries on right side of his head. The complainant fled from the spot, informed about the same to his family and thereafter, report against unknown person was

lodged.

- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He further submits that the applicant and the victim have no enmity prior to the incident, the applicant is the first offender. Number of persons had gathered on the place of occurrence therefore it is not clear to identify the real culprit. Charge-sheet has already been filed in this case, 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 14.10.2021 and 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-Applciant/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 injuries sustained by the victim, prior to the incident there was no enmity between the applicant and victim, looking to the fact that the dispute arose between two communities, at that time the victim was assaulted and sustained injuries, FIR was lodged 04.10.2021 whereas incident took place on 03.10.2021, the victim was admitted in hospital from 04.10.2021 till 13.10.2021, charge-sheet has already been filed, the detention period of the applicant, who is 18-19 years old, as per arrest memo no any adverse report against the applicant, the fact that the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsel and 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. 1,00,000/-** with two sureties of **Rs. 50,000/-** each to the satisfaction of the concerned 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