

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 3856 of 2020

Krishna Kumar alias Peelu, S/o. Dasrath Verma, aged about 35 years, R/o. Village Post Sel, Tehsil Kasdol, District Balodabazar Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : The Station House Officer, P.S. Kasdol, District Balodabazar Chhattisgarh.

---- Respondent

For Applicant	: Mr. Sumesh Bajaj, Advocate
For Respondent/State	: Mr. Ayaz Naved, G.A.
For Objector	: Mr. Ganesh Ram Burman, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/07/2020

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.333/2020, registered at Police Station – Kasdol, District – Balodabazar (C.G.) for the offence punishable under Section 294, 323, 506, 307 read with Section 34 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant. The FIR that has been initially lodged by the complainant, registered the offence only under Section 294, 323, 34 and 506 of the Indian Penal Code, which are bailable offences. The

complainant has influenced the investigation agency because of which the charge-sheet has been filed by adding offence under Section 307 of the Indian Penal Code.

3. It is submitted that the offence under Section 307 of the Indian Penal Code is not at all made out. The incident had occurred on the spur of moment because of parking of car to which the complainant had objected, therefore, it can not be said that there had been any intention of the applicant to cause death of the complainant. Making reference to the judgment of Supreme Court in case of **Hari Kishan Vs. Sukhbir Singh and Others**, reported in **AIR 1988 SC 2127** and in case of **Parsuram Pandey & Ors. Vs. State of Bihar**, reported in **AIR 2004 SC 5068**, it is submitted that it is a case of simple injury only. Another grounds raised for grant of bail is that the daughter of the applicant age 1.5 years is suffering from serious ailments of cerebral infarction because of which there is requirement of constantly pursuing her treatment in specialized hospital. As the applicant is in jail and he is unable to pursue the same, therefore, it is prayed that the applicant may be granted bail.
4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that looking to the evidence present in the case diary and that there are eye-witness of the case, the applicant is not entitled for grant of

bail.

5. Counsel for the objector submits that the complainant has been thrashed by the applicant and two others mercilessly because of which he suffered fracture in his ribs and spleen, he was required to undergo surgery and remained hospitalized for more than 20 days. The applicant is influential person, therefore, in case he is granted bail, he will influence the investigation and trial. Therefore, it is prayed that the application be rejected.
6. In reply, counsel for the applicant submits that the facts do not reveal any intention of the applicant to cause death of the victim. Secondly, it is submitted that illness of the child of the applicant should be given more consideration and the applicant may be granted relief.
7. I have heard the learned counsel for both the parties and perused the case diary.
8. As per the prosecution case, on the date, time and place of incident, the complainant was on his way to his village in car. He found Pick-up belonging to the applicant parked on the road. When the complainant asked him to remove the Pick-up, the applicant and his associates pulled the complainant out of the car and then assaulted him with hands, fists and clubs. The complainant was also threatened and abused by them.

9. Considered on the submissions made by both the sides. On perusal of MLC report and the medical documents of the hospitalization, it is found that the complainant suffered grievous injuries because of which he required surgery and hospitalization. The submission made by the applicant side that injuries caused was not fatal, is debatable, which can be determined in the trial. Considering that the applicant is in jail since 30.05.2020 and no purpose would be served, if the, applicant is kept in detention till the conclusion of trial and also considering the fact that the daughter of the applicant is suffering from serious ailment, who required immediate treatment and medical attention, hence for this reason, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
10. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
11. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge