

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.2863 of 2015

Kamal Rathore, S/o Ramo Rathore, aged about 34 years, R/o Village Sapiya,
Police Station Dabhra, Civil & Revenue District Janjgir-Champa (C.G.)
---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate/Station House Officer,
Police Station Dabhra, Civil and Revenue District Janjgir-Champa (C.G.)
---- Non-applicant

For Applicant: Mr. Dharmesh Shrivastava, Advocate.

For Non-applicant: Mr. Anupam Dubey, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

06/08/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.28/2010 (ST No.130/2010 pending in the Court of 2nd Additional Sessions Judge, Sakti, Distt. Janjgir-Champa), registered at Police Station Dabhra, Distt. Janjgir-Champa, for the offence punishable under Sections 147, 148, 452, 427, 506B and 307 read with Section 149 of the IPC.
2. This is the second bail application filed on behalf of the applicant for grant of regular bail. First bail application was dismissed by order dated 24-2-2015 passed by this Court in M.Cr.C.No.810/2015, thereafter, revision was filed and the revision has been withdrawn with liberty to file application under Section 439 of the CrPC which the trial Court has rejected by order dated 15-5-2015.

3. Learned counsel for the applicant submits that the applicant failed to appear only on 3-2-2015 and 4-2-2015, and thereafter, he has appeared before the Court on 5-2-2015 and on that day, he has been arrested and sent to jail and still he is in jail. He further submits that non-appearance of the applicant is unintentional and bona fide, in fact, the application under Section 439 of the CrPC is maintainable as he has no remedy in law. He also submits that the applicant is ready and willing to cooperate in trial.
4. On the other hand, learned State counsel opposes the application.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, further taking note of the fact that the applicant is already in jail since 5-2-2015 and leaving open the question of maintainability to be decided in appropriate case, I am of the view that it is a fit case to grant regular bail to the applicant. Accordingly, the application is allowed.
7. It is, therefore, directed that the applicant 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 Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge