

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.4012 of 2015

Smt. Mansha Kasture, aged 31 years, W/o Shri Anand Kasture, R/o LIG-23, Hudco Bhilai Nagar, P.S. Kotwali, Bhilai, District Durg (C.G.). Permanent resident of Duplex No.3, Satyadev Nagar, Near Wendy School, Gandhi Road, Thatipur, Gwalior, District Gwalior (M.P.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Bhilai Nagar, District Durg (C.G.)

---- Non-applicant

For Applicant:	Mr. Ramakant Gaur and Mr. B.S. Rajput, Advocates.
For Non-applicant:	Mr. Om Prakash Sahu, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

23/09/2015

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing her on regular bail during trial in connection with Crime No.282/2014 (Criminal Case No.7215/2014 pending in the Court of Judicial Magistrate First Class, Durg), registered at Police Station Bhilai Nagar, Durg, Distt. Durg, for the offence punishable under Sections 420, 467, 468, 471 and 409 read with Section 34 of the IPC.
2. This is the second bail application filed on behalf of the applicant for grant of regular bail. First bail application has been dismissed on merits by order dated 20-1-2015 passed by this Court in M.Cr.C.No.266/2015.
3. Case of the prosecution, in brief, is that the applicant and her husband Anand Kasture promoted the complainants claiming to be Directors of Ventura Securities Limited to invest ₹ 2,10,32,000/- in various securities and shares and did not return the same, and cheques given to the

complainants became dishonoured, and thereby committed the offence.

4. Learned counsel for the applicant submits that the applicant is a woman who was married to co-accused Anand Kasture in December, 2008 and most of the transactions were alleged to have been entered into prior to December, 2008 or November, 2009, the day on which the applicant's husband was appointed as Sub-Broker of Ventura Securities Limited. The applicant is said to be Director only for the name sake as her husband is used to look after the transaction in question. He further submits that the applicant / accused has settled the dispute with complainants Saroj Choubey and Vinod Choubey and the complaint filed under Section 138 of the Negotiable Instruments Act has already been dismissed vide order dated 18-8-2015. He also submits that the applicant has been detained in jail since 30-7-2014, thereafter, charge-sheet has been filed in November, 2014 and charges have been framed for the offence punishable under Sections 420, 467, 468, 471 & 409 read with Section 34 of the IPC by order dated 6-4-2015, and thereafter, the matter has been heard for 20 times and till this date not a single prosecution witness has been examined. The applicant is a woman suffering from epilepsy having a girl child aged about 3 ½ years who is suffering from ailment of lungs and no useful purpose will be served by keeping her further in jail. He relied upon the judgment of the Supreme Court in **Sanjay Chandra v. CBI**¹. He would lastly submit that looking to delay in trial while the applicant is in jail for more than one year, the applicant deserves to be released on bail.
5. On the other hand, learned State counsel opposes the bail application and submits that there is no change in the circumstances after rejection of earlier bail application of the applicant on 20-1-2015 and as such, she

¹ AIR 2012 SC 830

is not entitled to be released on bail.

6. I have heard learned counsel appearing for the parties and perused the case diary.
7. First bail application of the applicant was dismissed on merits by order dated 20-1-2015. Counsel for the applicant has broadly made statements on following counts:-
 1. The applicant is in custody since 30-7-2014, charges have been framed against the applicant on 6-4-2015 and, thereafter, the matter has been heard for 20 times but till this date, out of 26 witnesses not a single prosecution witness has been examined.
 2. The applicant is suffering from epilepsy for last twenty years and her minor daughter is suffering from ailment of lungs.
 3. Dispute between the applicant and the complainants namely Saroj Choubey & Vinod Choubey has been settled and the complaint case filed against the applicant for offence under Section 138 of the Negotiable Instruments Act has been dismissed vide order dated 18-8-2015 after rejection of the applicant's first bail application.
8. Thus, the fact remains that the applicant, being a woman, is in custody with effect from 30-7-2014, charges have been framed on 6-4-2015 for the aforesaid offences but out of 26 listed witnesses, none of them have been examined till this date, which is apparent from the entire order sheet filed by the applicant before this Court.
9. In the case of **Ashok Dhingra v. N.C.T. of Delhi**², accused was in custody for more than five months and considering delay in trial, the accused was given the benefit of regular bail.
10. Likewise, in the case of **Dipak Shubhashchandra Mehta v. Central**

Bureau of Investigaton and another³, Their Lordships of the Supreme

² (2000) 9 SCC 533

³ (2012) 4 SCC 134

Court have granted bail on account of delay in trial.

11. Thus, taking into consideration the facts and circumstances of the case, looking to the nature and gravity of offence, role of the applicant in the offence in question qua role of her husband, further considering the fact that the applicant being a woman is in custody with effect from 30-7-2014, out of 26 listed witnesses none of them have been examined till this date, the applicant is said to be suffering from epilepsy whereas her minor daughter, aged 3 ½ years, is suffering from ailment of lungs, further taking into account that the applicant has amicably settled the dispute with the two complainants namely Saroj Choubey & Vinod Choubey, following the law laid down by the Supreme Court in the above referred cases (supra) with regard to delay in trial, further following the law laid down by the Supreme Court in **Sanjay Chandra's** case (supra) and trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the bail application is allowed.
12. The accused/applicant is directed to be released on bail on her executing a personal bond in the sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the trial Court. She is directed to appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Sd/-
(Sanjay K. Agrawal)
Judge