

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.3241 of 2015

Deenanath Gupta, S/o Acchelal Gupta, aged about 29 years, R/o Joshi Road,
Katki Pada, House No.4, Dahisar East, Mumbai (Maharashtra)

---- Applicant

Versus

State of Chhattisgarh, Through P.S. Telibandha, District Raipur (C.G.)

---- Non-applicant

For Applicant:	Mr. Praveen Das, Advocate.
For Non-applicant:	Mr. Ramakant Mishra, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

12/08/2015

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.193/2013 (Criminal Case No.1165/2014 pending in the Court of Chief Judicial Magistrate, Raipur) registered at Police Station Telibandha, Distt. Raipur, for the offence punishable under Sections 420, 467, 468, 471 and 120B of the IPC.
2. Case of the prosecution, in brief, is that the present applicant along with co-accused Poonam Gupta and Umesh Vinod Mishra cheated complainant Kamal Narayan Sahu. Further case of the prosecution is that complainant Kamal Narayan Sahu purchased 4.5 gallons of vieto oil liquid on various dates from M/s. Agrawal Pvt. Co. Ltd., through website in which the present applicant and other two co-accused were partners, and an amount of Rs.33,50,000/- was deposited in the account of Saikripa Enterprises by making forged documents and the amount so deposited was withdrawn by co-accused Poonam Gupta and the other co-accused persons, and they have not delivered the goods to the complainant, and thereby committed the

offence.

3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case, as he is the husband of Poonam Gupta. He would further submit that goods in question have already been delivered to complainant Kamal Narayan Sahu. Challan has already been filed and charge-sheet has been framed against the applicant, yet, the prosecution has not been able to examine any witness. The applicant is in jail since 27-10-2013. Kamal Narayan Sahu has been examined in-chief only on 19-3-2015 in which he has only made allegation against Kavita Agrawal and he has not appeared thereafter for cross-examination till this date as such there is great delay in examining the prosecution witnesses. There are 33 charge-sheeted witnesses and trial is not likely to conclude early in view of the dilatory practice by Kamal Narayan Sahu himself who has not been examined for last six months, as he failed to appear. Co-accused Poonam Gupta and Umesh Vinod Mishra have been granted bail by this Court vide orders dated 22-4-2015 and 7-5-21015 passed in M.Cr.C.Nos.1244/2015 and 2237/2015, respectively. No useful purpose will be served by keeping the applicant in jail.
4. On the other hand, learned State counsel opposes the application and submits that it is Kavita Agrawal who has withdrawn the amount and main allegation is against Kavita Agrawal. Co-accused Poonam Gupta and Umesh Vinod Mishra have already been granted bail by this Court.
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, role of the present applicant in the offence in question, the fact that charge-sheet has already been filed and none of the prosecution witnesses have completely been examined except the examination-in-chief of Kamal Narayan Sahu on 19-3-2015, the applicant is in jail since 27-10-2013, co-accused Poonam Gupta & Umesh Vinod Mishra

have been released on regular bail by this Court, taking into consideration the examination-in-chief of Kamal Narayan Sahu and considering long detention of the applicant for about two years, 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.50,000/- 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