

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.4320 of 2015

Rajkishore Harbansh, S/o Late Tularam Harbansh, aged about 54 years, R/o 127 Face-2, Rajkishore Nagar, Police Station Sarkanda, District Bilaspur (Chhattisgarh)

---- Applicant

Versus

State of Chhattisgarh, Through the Superintendent of Police, Prevention of Anti Corruption Bureau, Bilaspur, District Bilaspur (Chhattisgarh)

---- Non-applicant

For Applicant: Mr. S.C. Verma, Advocate.

For Non-applicant: Mr. Om Prakash Sahu, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

07/09/2015

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.38/2011, registered before the Superintendent of Police, Anti Corruption Bureau, Bilaspur, for the offence punishable under Sections 13 (1) (d) and 13 (2) of the Prevention of Corruption Act, 1988.
2. This is the second bail application filed on behalf of the applicant for grant of regular bail. First bail application was rejected on 3-7-2015 by this Court in M.Cr.C.No.2832/2015. Second bail application has been entertained in view of the fact that on 28-7-2015, charge-sheet has been filed against the applicant for the aforesaid offences.
3. Case of the prosecution, in brief, is that the applicant had amassed wealth of ₹ 1,64,54,897/- disproportionate to his known source of income while working as Superintending Engineer, PMGSY, Circle

Bilaspur and thereby he committed the offence.

4. Mr. S.C. Verma, learned counsel appearing for the applicant, would submit that now charge-sheet has been filed running into 2,500 pages arraying 54 witnesses on the basis of which this bail application has been filed. It would go to show that property of mother of the applicant Smt. Shiv Harbansh of ₹ 2 crores which she got on permanent lease from Bilaspur Development Authority on 27-4-1999 on a premium of ₹ 6,000/- has been added. He would further submit that wife of the applicant is also having agricultural income to the tune of ₹ 1,41,51,825/- which has been wrongly included while computing the income of the applicant. He would also submit that now disproportionate income of the applicant has already been identified, charge-sheet has already been filed and no useful purpose will be served by keeping the applicant further in jail, as the applicant is facing trial and commencement & completion of trial is likely to sufficiently long time. Since custodial interrogation of the applicant is not required and in view of the law laid down in **Sanjay Chandra v. Central Bureau of Investigation**¹ and **Sharad Kumar v. CBI**², the applicant be released on bail, as he is already in custody from 2-6-2015.
5. On the other hand, learned counsel appearing for the State opposing the bail application would submit that there is no change in the circumstances except submission of charge-sheet by the prosecution. The applicant had amassed wealth of 520% more than his known source of income and there is evidence on record to hold that in violation of service rules, the applicant has amassed huge property.
6. I have heard learned counsel for the parties and perused the case diary.

¹ (2012) 1 SCC 40

² (2012) 1 SCC 65

7. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, evidence collected by the prosecution demonstrating that the applicant is having disproportionate property worth ₹ 1,64,54,897/- to his known source of income, severity of punishment prescribed for the aforesaid offences, material brought in support of the said allegation and available in the case diary, the fact that first bail application of the applicant has been considered on merits on 3-7-2015 only and the second bail application was entertained on 12-8-2015, most of the grounds raised herein were considered earlier on its merit and in view of the law laid down by Their Lordships of the Supreme Court in the cases of **Nimmagadda Prasad v. Central Bureau of Investigation**³ and **Subramanian Swamy v. C.B.I.**⁴, I do not consider the present case as a fit case to grant regular bail to the applicant by allowing the second bail application filed by him. The application deserves to be and is accordingly, rejected.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma

3 (2013) 7 SCC 466

4 (2014) 8 SCC 682