

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6255 of 2015

1. Deepak Agrawal, S/o. Shri Premchand Agrawal, aged about 40 years, R/o. Baikunthpur, Kotraroad, P.S. Kotwali- Raigarh, Tahsil and District – Raigarh (C.G.)

----Applicant

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station - Bhupdevpur, District – Raigarh (C.G.)

---- Respondent

For Applicant	: Mr. Avinash K. Mishra, Advocate
For Respondent/State	: Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/12/2015

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.172/2015, registered at Police Station – Bhupdevpur, District – Raigarh (C.G.) for the offence punishable under Section 407, 411, 379, 34 of Indian Penal Code and Section 4 (21) of Mining Act.
2. Case of the prosecution, in brief, is that on information received that the applicant was indulged in mixing up coal dust and soil with the coal, the depot of the applicant was raided and it was found that the coal which was being carried out from SECL Gevera project to the prospective purchaser their coal was being unloaded from truck and instead of coal, soil and dust were being mixed up.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in this case and he has not committed any offence. He would further submit that in order to attract the provisions of Section, the owner should have filed the complaint, but in this case, no such complaint has been filed. He would further submit that charge sheet in this case has been filed and even the soil report is on record, which did not support the fact that coal was being mixed up. He would further submit that the applicant in jail since 15.10.2015, therefore, he prays that considering the detention of the applicant, he may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. I have perused the case diary, and statement of Uttam Kumar, Durgesh Kumar, who are JCB Operator at the relevant time were unloading the coal from the truck. Similar nature of offence has been registered against the applicant under Crime No.173/2015, wherein considering the manner in which the offence has been committed, the bail has been rejected. Taking into the facts of this case and the manner in which the series of offence has been committed, considering the nature of the allegation, I am not inclined to allow this application.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge