

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4078 of 2015

- Mukesh Kumar Nirala, S/o Hira Lal Rajak, aged about 19 years, R/o village Sachai, Post-PS-Kurtha, District-Arwal (Bihar)

---- Petitioner

Versus

- State Of Chhattisgarh Through: Station House Officer, Tarbahar, Distt. Bilaspur (C.G.)

---- Respondent

For Applicant: Mr. Ravish Verma, Advocate.
For Respondent/State: Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/09/2015

Heard.

(1) The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 57/2015 registered at Police Station Tarbahar, Distt.-Bilaspur for the offences punishable under Sections 419, 420, 467, 468 & 471/34 of the Indian Penal Code along with Section 4 of the Examination Act.

(2) Case of the prosecution, in brief, is that applicant applied for the post of Assistant Loco Driver but allowed another co-accused Sonu Kumar to appear in his place and thereby committed the aforesaid offences.

(3) Counsel for the applicant submits that applicant has been falsely implicated in the offence in question as he has not committed any offence. He further submits that he himself appeared in the examination and in the OMR sheet he has affixed his thumb impression but merely on account of some dis-similarity of thumb impression, he has been implicated in the offence stating that he has allowed another person to appear in the examination in his place. He also submits that he appeared in the examination of 29.6.2014 whereas FIR has been lodged on 7.3.2015; and there is no report of hand writing expert that his signature in the OMR sheet does not tally with the admitted signature of the applicant and, as such, the applicant is in jail since 08.03.2015; and the charge sheet has already been filed and no custodial interrogation is required and, therefore, the applicant may be released on bail

(4) On the other hand, learned counsel for the State opposes the bail application.

(5) I have heard the counsel appearing for the parties and perused the case diary with utmost circumspection.

(6) Taking into consideration the facts & circumstances of the case; looking to the nature & gravity of the offence; further taking note of the fact that there is no evidence on record to show that applicant allowed some other person in his place to appear in the examination except difference in thumb impression including the fact that there is no report of hand-writing expert that his signature in the OMR sheet does not tally with the admitted signature of the applicant; applicant is in jail since 08.03.2015; charge sheet has already been filed; this court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

(7) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-