

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 889 of 2016

Deepak Agrawal S/o Shri Premchand Agrawal Aged About 40 Years
R/o Baikunthpur, Kotraroad, P.S. Kotwali Raigarh, Tahsil And
District Raigarh Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through S.H.O. Police Station Bhupdevpur,
District Raigarh Chhattisgarh.

---- Respondent

For applicant - Shri Avinash K. Mishra, Advocate.
For Respondent/State – Shri Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

15/02/2016

1. This is second bail application under Section 439 of Cr.P.C. The earlier bail application bearing M.Cr.C. No.6255 of 2015 was dismissed on 10/12/2015.
2. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No. 172/2015 registered in Police Station Bhupdevpur, District-Raigarh (C.G.) for offence punishable under sections 407, 379, 411, 414, 120 B of Indian Penal Code, R/w 4 (1) (21) of Mining Act.
3. 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.
4. Learned counsel for the applicant submits that earlier bail

application was dismissed on 10/12/2015 on the basis of the fact that Crime No.173/2015 was registered. He further submits that in other Crime No.173/2015 the applicant has been enlarged on bail on 10/02/2016 as the seizure witnesses have turned hostile. He further submits that in this case also the prosecution witnesses Uttara Kumar Sahu and Durgesh Kumar Sahu who are material witnesses have turned hostile before whom seizure was made, therefore, the applicant may be released on bail.

5. Learned State counsel do not dispute the fact that material witnesses have turned hostile and on that ground applicant has been enlarged on bail in Crime No.173/2015.

6. I have perused the statement of the witnesses. Taking into similarity of the fact that witnesses have not supported case of the prosecution, without any observation on merits, this court is inclined to release the applicant on bail.

7. Accordingly, the second bail application is allowed and it is directed that the applicant shall be released on his furnishing personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of concerned trial court for his regular appearance before it as and when directed.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE