

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 2508 of 2016

1. Santosh Vishwash, S/o. Shanti Vishwash, aged about 42 years, R/o. Village-Datpur, Post Office & Police Station – Raidhar, District-Navrangpur (Odisha)

----Applicant

Versus

1. State of Chhattisgarh, Through : the Station House Officer, Police Station – Shobha, District – Gariyaband (Chhattisgarh)

---- Respondent

For Applicant	: Mr. Shivendu Pandya, Advocate
For Respondent/State	: Ms. Shobha Kashyap, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27/06/2016

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.01/2016, registered at Police Station – Shobha, District – Gariyaband (C.G.) for the offence punishable under Section 379 of Indian Penal Code, 4 (21) Mines and Minerals Act. (Development and Regulation Act), 1957 (wrongly mentioned as Mining Act in the rejection order) and 3/181, 146/196 of Motor Vehicle Act.
2. Case of the prosecution, in brief, is that on secret information received that on 06.02.2016, the applicant has stolen few of the diamond, he was intercepted and from his possession 35 pieces of diamond were recovered. Subsequently on investigation it was found that few of them was diamond.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. He further submits that both the seizure witnesses in this case have been examined before the Court below and have not supported the case of the prosecution, therefore, the allegation can not be attributed to the applicant. He further submits that charge-sheet in this case has been filed and the applicant is in jail since 07.02.2016, therefore, the applicant 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.
6. Considering the fact that seizure witnesses have not supported the case of the prosecution, without any observation on merits, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge