

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.CR.C. No. 549 of 2016

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 : S.H.O., Police Station - Bhupdevpur, District – Raigarh (Chhattisgarh)

---- Respondent

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

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

10/02/2016

1. This is the third 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.173/2015, registered at Police Station – Bhupdevpur, District – Raigarh (C.G.) for the offence punishable under Section 407, 379, 411, 414, 120 B of Indian Penal Code, R/w. 4 (1) (21) of Mining Act. The second bail application was dismissed on 10.12.2015 in M.Cr.C.7080/2015 with liberty to repeat the bail application after examination of material witnesses.
2. Case of the prosecution, in brief, is that on secrete information received, the police has seized the Truck bearing No.C.G.-04 J.B./6702 and it was found that at the behest of the applicant, the coal loaded from Gewara Project to Kesaw Sponge Iron, Raigarh on the way it was diverted to the depot of applicant, wherein the coal was unloaded instead dust soil was loaded.
3. Learned counsel for the applicant would submit that on earlier dismissal on 10.12.2015, a liberty was given to this applicant to repeat

the bail application after material witnesses is examined. He further submits that Durgesh Kumar Sahu and Uttara Kumar Sahu, the material and independent witnesses are examined before the Court and they have not supported the case of prosecution. He relied on the statement of the witnesses filed alongwith the bail application and would submit that considering the fact that material witnesses have not supported the case of the prosecution, therefore, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application, however, do not dispute the fact that Durgesh Kumar Sahu and Uttara Kumar Sahu, the material independent witnesses have not supported the case of the prosecution.
5. I have heard learned counsel appearing for the parties.
6. Perused the statement of the witnesses, they have turned hostile. Considering the fact that material witnesses have been examined, who have not supported the case of the prosecution and further considering the fact that the applicant is in jail since 25.09.2015, 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