

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1453 of 2016**Order reserved on 02.12.2016Order delivered on 13.12.2016

Umesh Kumar Sahu @ Umesh Sao, S/o Shri Baldev Prasad Sahu, aged about 35 years, R/o Qtr. No.15,16/2, North Vasundhara Nagar, Bhilai-3, Tahsil-Patan, District Durg (CG).

---- Applicant**Versus**

State of Chhattisgarh, through the Station House In-charge, Police Station City Kotwali, Mahasamund, Tahsil & District Mahasamund (CG).

---- Non-applicant

For Applicant : Shri Shailendra Dubey, Advocate

For Non-applicant/State: Shri Gary Mukhopadhyay, Deputy Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**ORDER (C.A.V.)****13/12/2016****(1)** Heard.

(2) This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.195/2015 registered at Police Station City Kotwali, Mahasamund, District Mahasamund,

for the offence punishable under Sections 407, 420, 411, 467, 468, 471, 379, 120-B and 201 read with Section 34 of the Indian Penal Code.

(3) The applicant's first bail application was withdrawn by order of this Court dated 13.10.2015 passed in M.Cr.C. No.5059/2015 with liberty to repeat after material prosecution witnesses are examined.

(4) Case of the prosecution, in brief, is that on written complaint of one Lalit Kumar Kapoor on 24.04.2015 for the alleged offence committed on 23.04.2015 against owner of carrier Suraj Transport, Bhilai and driver and helper of alleged carrier of vehicle Tanker bearing Registration No.C.G.04/HQ 4745 FIR was registered for the offence punishable under Sections 407, 420, 411, 379 and 34 of IPC alleging that the furnace oil which has been lifted by carrier Suraj Transport on behalf of complainant from Hindustan Petroleum Corporation Limited, Mandir Hasoud has not been transported till date and the complainant came to know that vehicle Tanker which was loaded with furnace oil taken to Subham Organic Industrial Area, Birkoni Mahasamund. As such alleged theft have been committed for furnace oil 28000 liters costing Rs.8,16,298/- and during investigation final challan has been filed against 17 accused including the present applicant alleging that he is also used to deal as carrier for various companies for transportation of furnace oil and he is also

committed offences punishable under Sections 407, 420, 411, 467, 468, 471, 379, 120-B, 201, 34 of IPC.

(5) Mr. Shailendra Dubey, learned counsel appearing for the applicant would submit that now 29 material prosecution witnesses have been examined before the trial Court and they have not stated anything against the present applicant and there is only allegation of purchasing stolen furnace oil against him and there is no recovery from him. The offences are triable by Magistrate First Class and prosecution of the applicant is likely to take further time, therefore, the second bail application may be entertained and he may be released on bail.

(6) On the other hand, learned counsel appearing for the State would oppose the bail application.

(7) I have heard learned counsel for the parties and perused the record with utmost circumspection.

(8) Taking into consideration the fact and circumstances of the case, nature and gravity of the offence and manner in which the offence is said to have been committed and huge money was misappropriated by the applicant with the help of other co-accused; and further taking into consideration the evidence available on record and the similarly situated co-accused person namely Manish Amarani and Amit Jain's bail applications have already been rejected by this Court in M.Cr.C. No.6906/2015 and

M.Cr.C. No.7663/2015 respectively. I do not consider it is a fit case for grant of regular bail under Section 439 of Cr.P.C. and accordingly, application for grant of bail is rejected.

(9) Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

L/-