

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 4950 of 2016

1. Rahul Kumar Gendle @ Gulshan, S/o. Pusau Ram, aged about 24 years, R/o. Village Khairjiti, Post – Loda, P.S. & Tahsil Pathriya, District – Mungeli (C.G.)
(Wrongly mentioned as Rahul Kumar Gendre in impugned order dt. 06.06.2016)

----Applicant

Versus

1. State of Chhattisgarh, Through : District Magistrate, Balodabazar, Police Station – Gidhori, District – Balodabazar – Bhatapara (C.G.)

---- Respondent

For Applicant	: Mr. Sourabh Dangi, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri
Order On Board

29/08/2016

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.86/2015, registered at Police Station – Gidhori, District- Balodabazar – Bhatapara (C.G.) for the offence punishable under Section 379, 407, 420, 120 (B), 34 of Indian Penal Code and Section 3 and 7 of Essential Commodities Act, 1955.
2. Case of the prosecution, in brief, is that 220 quintals of paddy was loaded in the truck bearing registration No.C.G.-04/JB-2138 for transporting the same to the paddy procurement center at Kurudbhata from Matiya instead taking the same, the applicant in connivance with other co-accused has sold it to one rice miller. Thereby the offence has been committed.

3. Learned counsel for the applicant submits that the applicant was only discharging his duties as a driver and the main allegation have been attributed to other co-accused, who is the owner and the transporter and his case is entirely different from that of other co-accused persons. It is further submitted that the applicant being the driver is under bounden duty to follow the instruction of the owner, therefore, no *means-rea* can be attributed to the applicant, therefore, the counsel prayed that the applicant may be enlarged on bail.
4. On the other hand, learned counsel for the State opposes the bail application and would submit that the applicant personified himself as Gulshan and signed the delivery memo along with other co-accused, though he was not Gulshan. It is further submitted that bail application of similarly placed co-accused have been rejected by the Coordinate Bench of this Court, therefore, he prayed that the applicant may not be released on bail.
5. I have heard learned counsel appearing for the parties.
6. Perused the case diary and the documents. Considering the facts and circumstances of the case and the evidence collected by the prosecution and further taking into the fact the role played by this applicant, I am not inclined to release the applicant on bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge