

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6114 of 2016

1. Goldi Jaiswal, aged about 32 years, Son of Har Prasad Jaiswal, R/o. Navagaon, Katghora, Tahsil – Katghora, District – Korba (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : Station House Office, Police Station – Katghora, District – Korba (C.G.)

---- Respondent

For Applicant	: Mr. A.K. Prasad & Mr. Raghavendra Pradhan, Advocates
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

19/12/2016

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.187/2016, registered at Police Station – Katghora, District – Korba (C.G.) for the offence punishable under Section 409 of Indian Penal Code.
2. Case of the prosecution, in brief, is that an agreement was executed in between C.G. Marketing Federation and applicant being the proprietor of Om Sai Rice Mill, Katghora. It is alleged that the applicant has lifted 15074.35 quintals of paddy for milling and rice was to be deposited to the percentage of 67% after milling the paddy. However, only 5646.99 quintals of rice as against 10098.81

quintals of paddy was deposited and thereby has misappropriated 4452.82 quintals of rice amounting to Rs.1,07,45,367/-. Thereby the offence has been committed.

3. Learned counsels for the applicant submit that no offence has been committed and the entire liability is of civil in nature as the dispute has been arisen out of an agreement. It is further submitted that after lifting of the paddy, the applicant has reported the concerned authority about the poor quality of the paddy as the paddy was in destroyed condition. It is further submitted that charge-sheet in this case has been filed and the appeal is still pending against the proposed recovery made. It is further submitted that Rs.46.50 lakhs has already been recovered and no offence is made out against the applicant. Therefore, the counsel prays that 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. Perused the case diary and the documents. Charge-sheet in this case has been filed. Considering the nature of allegation and taking into the fact that agreement was existing. Further considering the fact that all the evidences in this case are documentary in nature and no further investigation is necessary. Taking into such facts and circumstances of the case and the fact that the applicant is in jail since 25.06.2016, 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

Balram