

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6489 of 2016

1. Kamal Kishore Sain, S/o. Harinarayan Sain, aged about 37 years, R/o. Surya Vihar, Bhilai, Police Station Bhilai-3, District – Durg (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, through: Police Station City Kotwali, Mahasamund, District – Mahasamund (C.G.)

---- Respondent

For Applicant	: Mr. Manoj Paranjpe, Advocate
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri
Order On Board

08/11/2016

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.195/2015, registered at Police Station – City Kotwali, Mahasamund, District – Mahasamund (C.G.) for the offence punishable under Section 407, 420, 411, 379, 467, 468, 471, 120-B, 201 read with Section 34 of Indian Penal Code.
2. As per prosecution case, certain furnace oil were purchased by Jindal Steel from HPCL Mandir Hasoud, which were to be carried to Raigarh Power Plant. The transporter of the said furnace oil was Umesh Kumar Sahu, the owner of Mandal Oil Carrying Company and one Deepak Kumar Pandey was the Manager in such Mandal Oil Carrying Company instead of carrying oil to Jindal Steel, the said

oil was sold to different purchasers including one Shyam Chemical, which was owned by the present applicant, Kamal Kishore Sain. Thereby the applicant in connivance with the other co-accused have misappropriated the oil by hatching conspiracy. The applicant was inculpated after the manager of Umesh Kumar Sahu, transporter, namely Deepak Kumar Pandey apprehended and on his statement recorded on 03.06.2016, the name of the present applicant revealed. Thereby the offence has been committed.

3. Learned counsel for the applicant would submit that there is no evidence to the fact that the applicant has purchased the furnace oil and only on the basis of memorandum of Deepak Kumar Pandey, the applicant has been apprehended but the recovery of facts having not been supported by such memorandum, therefore, virtually no evidence is existing against the present applicant. The counsel placed his reliance on 1995 Cr.L.R. (M.P.) 1995 205 and would submit that recovery has not been made after the memorandum under Section 27 of the Evidence Act, which will led to no evidence. He would further submit that certain documents register were seized, which were with respect to supply of certain products goods as the applicant is also the manufacturer of fuel oil, 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 documents. The bail application of the other transporter namely Umesh Kumar Sahu and Atindra Jain @ Bunti have been dismissed by the Co-ordinate Bench and by this Court in M.Cr.C. No.5059/2015 and M.Cr.C. No.7663/2015.
7. Perusal of the documents would reveal that on the memorandum, four computers and hard disk were seized, wherein entries were made deleted by the present applicant which have been sent for FSL. Considering the facts of this case as the case diary suggests that there has been some tampering of evidence as the entries were deleted and the fact that the bail application of other co-accused has been dismissed and further considering the charges under Section 120B of I.P.C., I am not inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge