

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4325 of 2017**

Ankit Tiwari S/o Rajiv Tiwari, Aged About 24 Years R/o 145, Ganesh Madiya Andar Bada Gaon Gate, District Jhansi Madhya Pradesh Presently R/o Near Suryakund Talab Housing Board Police Station Jamul Durg District Durg Chhattisgarh

---- Petitioner**Versus**

State Of Chhattisgarh Through District Magistrate Durg, Civil & Revenue District Durg Chhattisgarh

---- Respondent

For the Petitioner	:	Shri Amiyakant Tiwari, Advocate.
For the Respondent/State	:	Shri Anil S. Pandey, Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****14.07.2017**

1. Heard.
2. 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.120 of 2015, registered at Police Station – Bhilai Bhatti, District – Durg, Chhattisgarh for the offence punishable under Sections 447, 379, 467, 468, 471, 120B read with Section 34 of the Indian Penal Code.
3. Learned counsel for the applicant submits that the applicant has been made as co-accused in the case only on the basis of his own memorandum statement and on the basis of memorandum statement of one co-accused. He further submits that no seizure has been made from the applicant, even then he has been arrayed as accused and sent to custody. The co-accused

person in this case, Shashikant Mishra has been released on bail in Cr.M.P. No. 737 of 2017 under Section 437(6) of the Code of Criminal Procedure by a Coordinate Bench of this Court. Another co-accused Jitendra Kumar Chauhan has been benefited with anticipatory bail by order dated 17.5.2017 passed in M.Cr.C.(A) No. 1353 of 2016 by this court. Further, another co-accused Usman Beg has been released by Remand Court under Section 167(2) of the Cr.P.C. Looking to the evidence against the applicant and that of the co-accused who are on bail, the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application.

5. The case against the applicant is that on 19.6.2015, five pieces of nuts made of iron and brass of value approximately Rs.65,00,000/-, the property of theft was being transported by a Truck bearing registration No. C.G. 07 AU 2670 which was apprehended by the police station Jamul. During investigation, co-accused Shashikant Mishra gave the statement on memorandum that applicant – Ankit Tiwari was also a party in the offence. The applicant could not be arrested and in his abscondance the charge-sheet was submitted before the court. The applicant was arrested on 30.3.2017 and produced before the court.

6. On perusal of case diary, it is found that though the memorandum statement of the applicant has been recorded but no recovery as such of any article of theft has been made from him.

7. Considering the fact that the co-accused persons in this case are on bail and it appears that the applicant also has a similar case, this Court is of the opinion that the present is a fit case where he is also entitled to be released on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. 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.

Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge