

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 7449 of 2017**

Mirza Walid Hussain S/o Anwar Hussain, aged about 30 years, R/o Bhiwandi, Gulzar Nagar, House No. 591, Police Station- Shanti Nagar, Tehsil Bhiwandi, District Thane, Maharashtra.

---- Applicant**Versus**

State of Chhattisgarh through Police Station- Kotwali, District Korba, Chhattisgarh.

---- Respondent**and****Misc. Criminal Case No. 7493 of 2017**

Md. Manuwar alias Munawar S/o Md. Safur, aged about 28 years, R/o Ratakhar, near Madarsa Korba, Police Station City Kotwali, Tehsil and Dist. Korba, Chhattisgarh

---- Applicant**Vs**

State of Chhattisgarh through District Magistrate, Korba, District Korba Chhattisgarh.

---- Respondent

For Applicants	:	Shri Lalit Jangde, Advocate
For Respondent/State	:	Smt. M. Asha, P.L.

Misc. Criminal Case No. 7671 of 2017

Rakesh Dhamecha S/o Shri Amrit Lal Dhamecha, aged about 32 years, R/o Deendayal Awasiya Parisar, Rampur, Korba, PS Balco Nagar, Tahsil and District Korba, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through the Station House Officer, Police Station- Kotwali, Korba, District Korba, Chhattisgarh.

---- Respondent

For Applicant	:	Shri S. S. Masih, Advocate
For Respondent/State	:	Smt. M. Asha, P.L.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

13/12/2017

The present applications have been filed u/s 439 of Cr.P.C. for grant of bail to the applicants who have been arrested in connection with Crime No. 537/2017 registered at Police Station City Kotwali, Korba (CG) for the offence punishable under Section 420/34 of IPC. The applicants are in jail since 16/17/18.08.2017.

2. The allegation, as per the prosecution, against the present applicants is that they along with other accused are said to have involved in a business of getting gold ornaments with very less purity and keeping it in different financial institutions obtained loan against the said gold. Later on, it was found that the gold against which the loan was issued was containing only 25-30% of gold and rest was of different metals. Thus, there is an act of clear cheating on the part of the applicants.

3. So far as applicant Mirza Walid Hussain is concerned, counsel for the applicants submits that there is no allegation of cheating by Mirza Walid Hussain except for the memorandum statement of co-accused wherein he has taken the name of Mirza Walid Hussain also. The said statement of the co-accused cannot be used as an evidence against Mirza Walid Hussain for conviction since there is no other material available in the case diary against him, therefore, he is entitled to be released on bail.

4. So far as applicant Md. Manuwar alias Munawar is concerned, counsel for the applicants submits that it is a case where he has been implicated in the case for the first time and that he was totally ignorant of the contents and purity of the gold ornaments which was in his possession. He submits that applicant

Manuwar has been falsely implicated in the case and he has already remained in custody for a period of almost four months, therefore, he may be released on bail.

5. As regards applicant Rakesh Dhamecha, counsel for the applicants submits that except for the allegation of providing his ID proof to his friend Md. Manuwar for getting loan against the deposit of gold from Manapuram Gold Loan, Korba there is no other material available in the case diary to implicate the present applicant. Therefore, he may be released on bail.

6. State counsel, however, opposing the bail application submits that it is a big racket which has come to the notice of the Police Authorities and the three applicants herein are also part of the same gang operating in different areas.

7. However, on a query being put to the State counsel, she on perusal of the records submits that except for the present appeal, there is no other offence registered against the three applicants.

8. Given the facts and circumstances of the case, particularly there being no evidence against the applicants of having full knowledge of the ornaments being less in purity and also taking note of the period of custody undergone, this Court is of the opinion that it is a fit case for grant of bail to the applicants.

9. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicants will be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court for their appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
JUDGE