

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.1450 of 2017**

- Madar @ Salim Khan S/o Nazim Khan, Aged About 43 Years
R/o Village Dutkaiya, Thana Rajim, District Gariyaband,
Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Rajim District
Gariyaband, Chhattisgarh.

---- Respondent

For Applicant	: Shri Awadh Tripathi, Advocate on behalf of Shri Suresh Tandon, Advocate
For Respondent/State	: Shri Anil S Pandey, Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****03.4.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with crime No.06/2015 registered in Police Station Fingershwar, District Gariyaband for the offence punishable under Section 420, 34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that this the case of bail jump, the applicant is accused in Criminal Case No.179/2015 before Judicial Magistrate First Class , Rajim, Civil District Raipur, charge sheet has been filed and the matter is listed for recording of evidence. Earlier he was granted bail by the Additional Sessions Judge, Gariyaband on 21.4.2015, he has furnished the bail bonds in

accordance with the said order, but failed to give his appearance before the trial Court on 22.9.2015. With this the trial Court issued warrant of arrest against him, proceeded under Section 299 of the Cr.P.C. and issued permanent warrant of arrest, thereafter he was arrested on 15.01.2017 for the alleged offence and since then he is in jail, one more co-accused is to be tried in the matter who is languishing in the jail. The Court already decided the matter against two other co-accused Panchram and Makhan. On account of ailment of family members the applicant was not in a position to inform his counsel, with this warrant of arrest has been issued, he is in jail for 2 ½ months, granted bail earlier by the Additional Sessions Judge, on appreciation of the entire material against him now he will not remain absent in the trial and will co-operate with the trial hence, he may be granted bail till the conclusion of the trial.

4. On the other hand, learned counsel for the State opposes the bail application and would submit that the applicant willfully not appeared before the trial Court and another accused is in custody, hence in account of possibility of delay in trial, the Sessions Judge Gariyaband rightly dismissed the application, hence, the instant application may also be dismissed.

5. Perused the material available.

6. On due consideration of the fact that earlier the applicant was granted bail by the Additional Sessions Judge, Gariyaband and on account of his non appearance on 22.9.2015, the warrant of arrest has been issued and ultimately permanent warrant of arrest has been issued, two other co-accused persons were tried in the matter

and judgment passed, the applicant pray that he will appear regularly before the trial Court as and when directed, I am inclined to grant last opportunity to the applicant so that he may remain on bail during the trial.

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

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with two sureties of Rs.25,000/- each to the satisfaction of the Judicial Magistrate First Class, Rajim, Civil District Raipur in Criminal Case No.179/2015 for his appearance before the said trial Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE