

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1871 of 2017**

- Ramkumar s/o Shri Hublal, aged about 24 years, R/o village Devadand, PS & Tehsil -Khadgawan, District Korea (CG)

---- Applicant

Versus

- State Of Chhattisgarh Through PS Khadgawan, District Korea (CG)

---- Respondent

For Applicant	: Shri Pawan Shrivastava, Advocate
For Respondent/State	: Shri Wasim Miyam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****27.4.2017**

1. Heard on IA No.1/2017 for taking document on record.
2. On due consideration, IA No. 1/2017 is allowed. Documents filed along with the application are taken on record if otherwise admissible.
3. Heard the matter finally.
4. 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.74/2016 registered at Police Station Khadgawan, Distt. Korea(CG) for the offence punishable under Sections 457, 380, 411, 34 IPC.

5. Learned counsel for the applicant submits that the applicant surrendered before the JMFC Baikunthpur, Chirmiri District Korea (CG) in Cr. Case No. 9/2017. He submits that there is no stolen property seized from the applicant and Khadgawan police had never applied for any police remand. The applicant is innocent and he is in custody since 13.2.2017. Police had filed 2 other charge sheets against the other co-accused persons in connection with crime no. 199/16 and crime no. 205/16 where final report has been filed against 5 accused in crime no. 199/16 and 4 accused in crime no. 205/16. As per final report under Section 173 Cr.P.C., it is mentioned that present applicant and other co-accused are absconding in both aforementioned cases and against them investigation is in progress and after their arrest supplementary charge sheet will be filed before the concerned court under the authority of Section 173 (8) Cr.P.C. But, despite surrender of the applicant in connection with crime no. 74/16 of Khadgawan Police in Cr. Case no. 9/2017 dated 13.2.2017, despite his surrender before the criminal court and as he is in custody till date, the Khadgawan police never arrested the present applicant for the 2 aforementioned cases nor taken the applicant in police remand for further investigation neither submitted any supplementary charge sheet under Section 173 (8) Cr.P.C. goes to show also there is no material against the present applicant in those 2 aforementioned cases. It also demonstrates non action of the police of Khadgawan. With this as the applicant is first

offender and nothing has been seized from the applicant, he is in custody since 2 ½ months till date, he may be released on bail.

6. On the other hand, learned counsel for the State opposes the bail application. Though fairly conceded that as per material in the case diary there is no earlier criminal antecedent reported.

7. I have heard the counsel appearing for the parties and perused the material.

8. On due consideration, as the applicant is in jail since 2 ½ months though he is accused in criminal case No.9/2017 pending before the JMFC, Baikunthpur at Chirmiri, District Korea(CG) and also nothing has been seized from the applicant so as to connect the present applicant in the crime, I am of the opinion that one opportunity may be given to the applicant to remain in the society without committing any offence.

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

10. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the JMFC, Baikunthpur, Chirmiri, District Korea for his appearance before the said trial Court as and when directed.

11. 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**