

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4112 of 2017**

- Durgesh Shrivastava S/o Shri Shambhu Shrivastava, Aged About 28 Years R/o Mauharpara, Ward No. 4, Manendragarh, Police Station Manendragarh, District Koriya, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Manendragarh, District Koriya, Chhattisgarh.

---- Respondent

For Applicant : Shri Dheerendra Pandey, Advocate
 For Respondent/State : Shri Sumit Jhawar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****10.8.2017**

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.105/2016 registered in Police Station Manendragarh, distt. Koriya (CG) for the offence punishable under Sections 457 and 380 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 22.11.2016, after investigation, concerned police has filed charge sheet, which is pending before Judicial Magistrate First Class, Manendragarh as Criminal Case No.33/2017. The police has filed charge sheet against present applicant, co-accused Raju Singh and also shown co-accused

Atul Tiwari as absconding under the relevant provisions of the Cr.P.C. Learned counsel for the applicant would submit that though there are three other matters registered against the applicant as Crime No.296/2016, 302/2016 & 356/2016 under Sections 457, 380 of the IPC and out of these cases, in Crime No.356/2016 the applicant has been granted bail by JMFC Manendragah , Distt. Koriya. The said matter is registered as Criminal Case No.856/2016 dated 09.02.2017 and in the remaining two matters the applicant had preferred two other bail applications i.e. MCRC No.4375/17 & 4369/2017 which is pending before this Court. Learned counsel for the applicant would submit that ornaments worth Rs.10,000/- only has been seized from the applicant, he is in custody since long, he will not commit any offence in future and except aforementioned matters, there was no other matter registered against the applicant and till date the applicant is not convicted by any criminal court, he is aged about 28 years, the trial may take sometime for its conclusion, hence he may be granted bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and would submit that total four matters have been registered against the applicant including the present matter for similar offence which shows the criminal antecedent of the applicant. Hence, looking to the value of the property seized from the applicant and his criminal antecedent , instant bail application may be dismissed.

5. Perused the entire material.

6. On due consideration of the fact that the applicant is in custody since eight months and eighteen days, one co-accused is absconding, the trial may take sometime for its conclusion, the offence is triable by JMFC, though the ornaments worth Rs.10,000/- has been recovered from the applicant for which there is no substance to demonstrate that it belongs to the complainant and though total four matters have been registered against the applicant as aforementioned, and also his long detention, I am inclined to give one opportunity to the applicant so that he shall not involve in any other offence in future and shall remain peacefully in the society.

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.1,00,000/- with two separate solvent sureties of Rs.50,000/- to the satisfaction of the Judicial Magistrate First Class, Manendragarh, Distt. Koriya for his appearance before the said 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.

10. It is further directed that till the conclusion of the trial, present applicant shall mark his appearance before the Station House Officer/IO, Police Station Manendragarh, Distt. Koriya **on every Monday at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Manendragarh Distt. Koriya as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE