

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.4369 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 Jhavar, 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.296/2015 registered in Police Station Manendragarh, Distt. Koriya (CG) for the offence punishable under Sections 457 and 380, 413/34 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.86/2017. The charge sheet has been filed against four accused persons including present applicant, his wife Pushpa Shrivastava, Raju Singh and accused Anil Tiwari, who was shown as absconding and charge

sheet has been filed against him under Section 299 of the CrPC. It is submitted on behalf of the applicant that though Crime No.302/16, 105/16 and 356/16 in relation with similar offence were registered against the applicant, out of which with regard to Crime No.356/2016 which is registered before trial Court as Criminal Case No.857/16, the trial Court granted bail and for two other matters the applicant had preferred M.Cr.C. No.4112/2017, 4375/2017 which is pending before this Court. The applicant is aged about 28 years, he will not commit any offence in future. As per the allegation, from the possession of the applicant one pair golden earrings of 3 grams, one pair silver ornaments-anklets and also one alleged agreement written in stamp paper of Rs.10/- containing three pages is also seized from the applicant showing agreement of purchase of immovable property in the name of his wife who was also the co-accused and is presently absconding. But the said agreement is not a registered sale deed. Even otherwise the prosecuting agency is free to attach the said property if it is found that the said property is purchased from the theft amount under the law and on the basis of the agreement, title may not pass under the Transfer of Property Act. Even otherwise, the agreement is not in the name of the present applicant. 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 considering the seizure from the applicant regarding agreement to purchase some immovable property and other facts, and also his criminal antecedent, his application for bail 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, the trial may take sometime for its conclusion, two co-accused persons are still absconding and considering the entire facts, the facts surfced with other crime number and also as the investigating agency is authorised under the law to take appropriate action for the property purchased from the theft amount, I am inclined to give one last 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 Cort 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