

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8197 of 2016

Tileshwar, S/o. Mitrobhanu Mehar, Aged About 41 Years, R/o. Village - Seenapali, Police Station - Seenapali, Civil & Revenue District Nuapada (Orissa).

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station Amalipadar, District Gariyaband, Chhattisgarh.

---- Respondent

For Applicant : Mrs. Indira Tripathi, Advocate

For Respondent : Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02/01/2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.35/2015 registered at Police Station- Amalipadar, District Gariyaband (C.G.) for the offence punishable under Section 398, 506-B of Indian Penal Code.
2. Case of the prosecution, in brief, is that the complainant Pawan Awasthi on 17.07.2015 lodged a written report against unknown persons that they tried to commit dacoity in the house of the complainant; thereby the offence has been committed.
3. Learned counsel for the applicant would submit that earlier the bail application was dismissed as withdrawn on 05.11.2015 in MCRC No.5944 of 2015 with liberty to repeat the same after examination of the complainant and now the complainant Pawan Awasthi has been examined as PW-2 and he has not identified the present

applicant. She further submits that the other co-accused Daya Mehar has been enlarged on bail by this Court on 28.11.2016 in MCRC No.7447 of 2016 on the basis of the fact that he was also not identified and the case of the present applicant is similar to that of Daya Mehar, therefore, the present applicant may also be released on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that the complainant Pawan Awasthi in his statement has categorically identified the present applicant, therefore, his case is different.
5. Perused the case diary and statement of Pawan Awasthi wherein in Para 1 & 2 direct allegations have been attributed against the present applicant and at this stage, the cross examination of the complainant cannot be appreciated by holding the entire trial. Taking into the facts and the statement made in Para 1 by the complainant Pawan Awasthi, this case appears to be different from the other accused Daya Mehar, therefore, I am not inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge