

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 279 of 2017

Satpal, S/o. Kashmira Singh, Aged About 33 Years, R/o. Zone- 02, Near
Telgu School, Khurshipar, Bhilai, Tahsil & District- Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- Station House Officer, Outpost Smriti
Nagar, Police Station- Khurshipar, Bhilai, District- Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Pushpendra Kumar Patel, Advocate

For Respondent : Mr. Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06.03.2017

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.1669/2005 registered at Police Station- Khurshipar, Bhilai, District Durg (C.G.) for the offence punishable under Section 34(A) of Excise Act and Section 25, 27 of Arms Act and Section 294, 506B, 427, 34 of Indian Penal Code.
2. As per the prosecution case, a report was made by Santosh Prajapati that on 22.12.2005, the applicant came along with other co-accused in Tata Indica Car M.P.35-C-0144 and thereafter, took out the sword and abused the complainant and challenge him to come out, thereafter, damage the Tata Indica Car, which was of his brother and broke the entire glass, subsequently, the Car was intercepted and from the Car 25.920 liter liquor and arms were recovered. Charge sheet was filed against the other co-accused

and the present applicant was absconding and he was arrested subsequently on 05.07.2016.

3. Learned counsel for the applicant would submit that this is the second bail application, the earlier bail application was dismissed on 06.09.2016 and thereafter three witnesses have been examined and the complainant has not turned up. He further submits that summons have not been served, which would be evident from the order sheet. The case is fixed for evidence on 23.11.2016 and three witnesses have been examined and they have not supported the case of the prosecution. On 07.11.2016, Santosh Prajapati was not served as he is out of station. Subsequently, on 23.11.2016 summons came unserved with a notice that he left the place of residence and the case was fixed for further evidence on 20.02.2017, however, on 20.02.2017 no evidence is recorded; therefore, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail, however, he is not able to dispute the fact that the complainant Santosh Prajapati has not been examined despite summons have been issued and initially in the month of November, 2016 he was not served and subsequently on 07.11.2016 he had went to Gaya and thereafter, on 23.11.2016 the report came that he had left the place of residence as such summons were not served.
5. Perused the case diary and the documents. Considering the facts of this case and the report of the State and further taking into fact that the applicant is in jail since 05.07.2016, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.

7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok