

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 513 of 2017

- Jogendra Prasad Kushwaha S/o Sudama Kushwaha, Aged About 27 Years R/o Village & Post- Sirsi, Police Station Surajpur, District- Surajpur, Chhattisgarh. **--- Applicant**

Versus

- State of Chhattisgarh through Station House Officer, Police Station- Batouli, District- Surguja, Chhattisgarh. **--- Respondent**

For the applicant	:	Mr. S. S. Rajput, Advocate
For the State	:	Mr. Omprakash Sahu, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

30.03.2017

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 90/2015 registered at P.S. Batouli, Distt. Surguja (C.G) for the offence punishable under Sections 420, 120-B, 467, 468, 471, 34 of IPC. The first bail application was dismissed on 28.09.2016.
2. As per the prosecution case, the applicant had floated a NGO namely Swasthay Wa Shiksha Avam Samaj Kalyan Samiti at Surajpur. Certain cheques bearing Nos.273617, 273620 & 273623 were stolen from Janpad Panchayat Batouli in the month of January 2015. By said cheques an amount of Rs.27 lakhs was deposited in the account of NGO. Subsequently, the said amount was transferred from the account of NGO to the private accounts, wherein Noor Mohammad, Latif Ahmad and Khurshid Alam were benefited. During the investigation, it was found that the said Khursid Alam, Noormohammad and Latif Ahmad have withdrawn the amounts.
3. Learned counsel for the applicant would submit that the applicant is in jail since 19.05.2016 and despite several opportunities, the

applicant was not taken to the Court and therefore, till date the charges have not been framed. He further submits that there are 34 witnesses and enormous delay will take place in disposal of the trial. He further submits that no further investigation is necessary and the applicant may be enlarged on bail.

4. On the other hand, learned State Counsel opposes the prayer.
5. Learned State Counsel was directed to obtain instructions as to why the applicant is not brought to the Court at the time of hearing. The communication dated 30.03.2017 addressed to the Superintendent of Police, which was sent by the Jail Superintendent, Central Jail Ambikapur shows that out of 8 dates from 16.12.2016, only on two dates i.e., 20.02.2017 and 20.03.2017, the applicant was sent to the Court and on other dates i.e., 16.12.2016, 29.12.2016, 10.01.2017, 23.01.2017, 6.02.2017 and on 20.02.2017 the applicant could not be sent in absence of the guard. The order of the trial Court was also perused which shows that the applicant could not be produced before the court below. Taking into such facts situation of the case, I am inclined to allow this bail application.
6. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court till disposal of the trial.

C.c. as per rules.

**Sd/-
GOUTAM BHADURI
JUDGE**