

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1545 of 2017**

Thanda Ram Banjara, S/o late Shri Baburam Banjara, aged about 55 years, Village Aarmuda, Police Station and Tahsil Pusaur, Civil and Revenue District Raigarh (CG).

---- Applicant

Versus

State of Chhattisgarh, through Station House Officer, Police Station Pusaur, District Raigarh (CG).

---- Non-applicant

For Applicant :Mr. Satish Chandra Verma, Advocate
For Non-applicant :Mr. Prafull N. Bharat, Addl. Advocate General
and Mr. Dhiraj Wanhede, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

11/08/2017

(1) The applicant's first bail application was dismissed on merits by order of this Court dated 28.01.2015 passed in M.Cr.C.No.6847/2014.

(2) The applicant's second bail application was dismissed finding no change in circumstances by order of this Court dated 16.04.2015 passed in M.Cr.C. No.1729/2015.

(3) The applicant's third bail application was also dismissed on merits by order of this Court dated 03.11.2015 passed in M.Cr.C.No.5917/2015.

(4) The accused/applicant has moved this fourth bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No.79/2014 registered at

Police Station Pusaur, District Raigarh for the offences punishable under Sections 420, 467, 468, 471, 120-B & 506/34 of the Indian Penal Code.

(5) Learned counsel appearing for the applicant would submit that the applicant is in jail since 27.11.2014 and even after passing of a long period of time, the trial has not concluded and the applicant has undergone sufficient sentence which is likely to be awarded by the Court below.

(6) Per contra, Mr. Prafull N. Bharat, Additional Advocate General with Mr. Dhiraj Wankhede, Government Advocate would submit that after dismissal of the second bail application of the applicant by this Court, the applicant had travelled upto the Supreme Court and the Hon'ble Supreme Court on 1.6.2015 was pleased to dismiss the SLP of the applicant in this regard. Thereafter, the applicant again preferred his third bail application before this Court and which also got rejected on 3.11.2015 on the ground of the earlier two bail applications of the applicant being already rejected by this Court as also the SLP preferred by the applicant against the rejection of the second bail being also dismissed. Subsequently, the applicant again moved a bail application before the Sessions Court which also rejected the bail application, on the ground of his earlier bail applications being already rejected by the Sessions Court as well as by the High Court and also on the ground that there was no change of circumstances. He therefore prays that the present bail application of the applicant is also liable to be rejected.

(7) In **Virupakshappa Gouda & Anr. v. State of Karnataka & Anr.**, 2017 (5) SCC 406, the second bail application was rejected by Sessions Court which was affirmed by the High Court and later on Special

Leave Appeal as dismissed by the Supreme Court. However, subsequently, the third bail application was allowed by the Sessions Court which later on set aside by the High Court against which the applicant therein had assailed in the Supreme Court and the said bail application was dismissed holding that:

“19. In the instant case, as is demonstrable, the learned trial Judge has not been guided by the established parameters for grant of bail. He has not kept himself alive to the fact that twice the bail applications had been rejected and the matter had travelled to this Court, Once this Court has declined to enlarge the appellants on bail, endeavours to project same factual score should not have been allowed. It is absolute impropriety and that impropriety calls for axing of the order.”

(8) In the instant case, the learned Sessions Judge as well as this Court has already rejected the bail applications of the applicant and after rejection of his bail applications, the applicant had approached the Hon'ble Supreme Court and his bail application has been rejected and no leave has been granted. Therefore, the fourth bail application of the applicant as framed and filed cannot be granted in view of binding observations made by Hon'ble Supreme Court in **Virupakshappa case** (supra).

(9) Consequently, the fourth bail application deserves to be and is hereby rejected.

SD/-
(Sanjay K. Agrawal)
Judge