

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2810 of 2017**

Umesh Kumar Sahu @ Umesh Sao, son of Shri Baldev Prasad Sahu, aged about 35 years, resident of Quarter No.15, 16/2, North Vasundhara Nagar, Bhilai-3, Tahsil Patan, District Durg, Civil & Revenue District Durg (C.G.)

----Applicant**Versus**

State of Chhattisgrh, through the Station House In-charge, Police Station City Kotwali, Mahasamund, Tahsil & District Mahasamund (C.G.)

---- Non-applicant

For Applicant: Mr. Shailendra Dubey, Advocate.
For Respondent/State: Mr. P.K. Bhaduri, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****17/05/2017**

(1) The accused/applicant has moved this third bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 195/2015 registered at Police Station – City Kotwali, Mahasamund for the offence punishable under Sections 407, 420, 411, 467, 468, 471, 379, 120-B and 201 read with Section 34 of the Indian Penal Code.

(2) The applicant's first bail application was dismissed as withdrawn by order of this Court dated 13.10.2015 passed in M.Cr.C. No.5059/2015 with liberty to repeat the same after material prosecution witnesses are examined. His second bail application was also dismissed on merits by order of this Court dated 13.12.2016 passed in

M.Cr.C. No.1453/2016.

(3) Thereafter, applicant preferred Special Leave Petition (Criminal) No.1301/2017 before Hon'ble Supreme Court of India, which has been dismissed as withdrawn with liberty to file bail application before this Court due to subsequent event.

(4) Case of the prosecution, in brief, is that on written complaint of one Lalit Kumar Kapoor on 24.04.2015 for the alleged offence committed on 23.04.2015 against owner of carrier Suraj Transport, Bhilai and driver and helper of alleged carrier of vehicle Tanker bearing Registration No. C.G.04/HQ4745 FIR Was registered for the offence punishable under Sections 407, 420, 411, 379 and 34 of IPC alleging that the furnace oil which has been lifted by carrier Suraj Transport on behalf of complaint from Hindustan Petroleum Corporation Limited, Mandir Hasoud has not been transported till date and the complainant came to know that vehicle Tanker which was loaded with furnace oil taken to Subham Organic Industrial Area, Birkoni Mahasamund. As such alleged theft have been committed for furnace oil 28000 liters costing Rs. 8, 16, 298/- and during investigation final challan has been filed against 17 accused including the present applicant alleging that he is also used to deal as carrier for various companies for transportation of furnace oil and he is also committed offences punishable under Sections 407, 420, 411 467, 468, 471, 379, 120-B, 201, 34 of IPC.

(5) Mr. Shailendra Dubey, learned counsel appearing for the applicant would submit that now 29 material prosecution witnesses have been examined before the trial Court and they have not stated anything against the present applicant. He would further submit that

after rejection of second bail application, Premlal Ramteke, who is main accused in the crime in question, has been granted bail by this Court vide order dated 22.03.2017 passed in M.Cr.C. No.128 of 2016; one another co-accused Kamal Kishore Sain has also been granted second bail vide order dated 13.02.2017 in M.Cr.C. No. 260/2017 by this Court. He would submits one another co-accused namely Sayyed Nasir has been granted bail by this Court vide order dated 11.01.2007 passed in M.Cr.C. 8270/2016 and that the other similarly situated co-accused persons namely Manish Amarani & Amit Jain @ Banti Jain have also been granted third bail by this Court vide order dated 4.5.2017 passed in M.Cr.C. Nos. 1576/2017 and 1924/2017, respectively. He would also submit that after rejecting of applicant's second bail application, he has already been acquitted in criminal case vide order dated 21.03.2016 by Additional Chief Judicial Magistrate, Raipur. He would submit that applicant is languishing in jail since 12.06.2015 and the charge sheet has already filed and, therefore, the applicant is entitled to be released on bail.

(6) On the other hand, counsel for the State opposes the bail application.

(8) Taking into consideration the nature and gravity of the offence and facts & circumstances of the case; and further taking into account that similarly situated co-accused persons namely Premlal Ramteke, Kamal Kishore Sain have been granted second bail by this court *whereas* other similarly situated co-accused persons namely Manish Amarani & Amit Jain @ Banti Jain have been granted third bail by this Court; and the fact that applicant is in jail since 12.06.2015 i.e. about two years and the charge sheet has already been filed ; this court is of

the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

(7) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-