

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2917 of 2018**

- Digesh Sahu S/o Shri yadoram Sahu, aged about 21 year, R/o village Rohansi, Police Station, Tahsil Pallari, District (Revenue & Civil) Balodabazar, Bhatapara (C.G.)

---- Applicant**Versus**

- State Of Chhattisgarh Through : The Police Station Pallari, District (Revenue & Civil) Balodabazar, Bhatapara (C.G.)

---- Respondent

For Applicant	:	Shri Sumit Jhanwar, Advocate.
For Respondent	:	Shri Majil Ali, G.A. for the State

Hon'ble Shri Justice P. Sam Koshy**Order on Board****25/05/2018**

1. The applicant has filed this application under Section 439 of the Code of Criminal Procedure for grant of regular bail as he is in custody since 06.02.2018 in connection with Crime No.479/2017 registered at Police Station : Pallari, District (Revenue & Civil), Balodabazar, Bhatapara (C.G.) for the offence punishable under Sections 457, 380 and 34 of IPC.
2. The allegation against the present applicant as per the prosecution is that on 25.12.2017, the present applicant in connivance with co-accused persons committed theft at the jewelery shop of Raj Kumar Sahu and have stolen large quantity of gold and silver ornaments and also huge amount of cash. Complaint and FIR were lodged on 26.12.2017 and later on during the course of investigation, the applicant and co-accused persons were arrested. Some silver biscuits and

cash of Rs.12,290/- were recovered from the possession of the applicant.

3. Counsel for the applicant submits that the present applicant has falsely been implicated in the crime in question. Moreover, even if the entire prosecution case is accepted, no case is made out against the applicant under Sections 457 and 380 IPC as there is no allegation against him of having committed the theft. He further submits that as per the memorandum of co-accused person, the present applicant was only standing outside the shop while the theft was being committed by other accused persons. He also submits that the articles seized from the possession of accused persons have not been subjected to identification by the prosecution till date and that the applicant has already remained in jail for two and half months, therefore, he may be released on bail.
4. State counsel, however, opposing the bail application submits that it is a case where substantive recovery has been made from the three accused persons including the present applicant. He further submits that most of the property i.e. cash, golden and silver ornaments seized from the accused persons were stolen from the shop of complainant Raj Kumar Sahu and, therefore, the applicant does not deserve to be released on bail.
5. Considering the facts and circumstances of the case and taking into consideration the recovery made from the possession of present applicant as also from other accused persons, this Court is not inclined to release him on bail.

6. Accordingly, his application filed under Section 439 of the Code of Criminal Procedure is rejected.

Sd/-

(P. Sam Koshy)
Vacation Judge

Vijay