

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5812 of 2018

Brijlal Vishvkarma S/o Vishram Vishvkarama, aged about 45 years R/o Village-Jogi Gufa, Police Station Bori, District- Durg (C.G.).

--- Applicant

Versus

State of Chhattisgarh, Through- Station House Officer, Police Station Kotwali, Civil and Revenue District- Rajnandgaon (C.G.).

---- Respondent

For Applicant	:	Mr. Jitendra Gupta, Advocate
For Respondent	:	Mr. Bhaskar Pyashi, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

14/09/2018

1. The applicant has preferred this Second bail application under Section 439 of the Cr.P.C for grant of regular bail as he is arrested in connection with Crime No. 78/2017 registered at Police Station Kotwali, Civil and Revenue, District- Rajnandgaon (C.G.) for the offence punishable under Sections 420 and 419/34 of the IPC.
2. First bail application of the applicant was dismissed vide order dated 12/07/2017 passed in MCRC No. 3682/2017.
3. As per prosecution story, the land in question belongs to complainant-Tularam. It is alleged that the present applicant, by showing his name as Tularam, sold the said land to one- Amita Bai. It is also alleged that co-accused Manish Kumar Vishvakarma, who is the son of Tularam, is one of the witness of the said sale-deed. Co-accused Manish Kumar falsely identified the present applicant as his father and thereby the present applicant along with him executed false and fabricated sale-deed in favour of Amita Bai. The present applicant was arrested on

01/02/2017. He filed the first bail application before this High Court, which was dismissed vide order dated 12/07/2017 passed in MCRC No. 3682/2017.

4. Learned counsel appearing on behalf of the applicant submits that co-accused Manish Kumar has been granted bail by the trial Court under Section 437 (6) of the Cr.P.C. He further submits that some of the prosecution witness have been examined, but they have not supported the case of the prosecution. Therefore, in the change circumstances, the present applicant may be released on bail.
5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned counsel for both the parties.
7. Grant of bail under Section 437 (6) of the Cr.P.C to the co-accused by the trial Court is not a new ground for consideration of the present bail application. Though, some witnesses have been examined and they have not supported the case of the prosecution, material witnesses are remained to be examined. Therefore, the ground that some examined witnesses have not supported the case of the prosecution, is also not a new ground for consideration. I do not find present to be a fit case to grant the bail to the applicant.
8. Accordingly, this second application is rejected
9. Looking to the fact that the applicant is in custody since 01/02/2017, the trial Court is directed to expedite the trial and decide the matter as early as possible in accordance with law.

Sd/-
(Arvind Singh Chandel)
Judge