

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 5876 of 2018**

Tejwant Singh Son of late Kalyan Singh, aged about 30 years,
resident of Padum Nagar, Bhilai-3, Police Station Bhilai-3, District
Durg (CG)

---- Applicant**Versus**

State of Chhattisgarh through House Officer, Police Station
Kurud, District Dhamtari (CG)

---- Respondent

For Applicant	:	Shri Avinash Chand Sahu, Advocate
For Respondent/State	:	Shri Arvind Dubey, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****11/09/2018**

This is the second bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 05.10.2017 in connection with Crime No. 241/2017 registered at Police Station- Kurud, District Dhamtari (CG) for the offence punishable under Sections 379, 120B, 420, 467, 468, 471, 401, 201 of IPC. The earlier bail application was rejected by this Court vide order dated 09.04.2018 in MCRC No.928 of 2018.

2. The allegation against the present applicant as per the prosecution case is that, the present applicant in connivance with the co-accused persons who were involved in the stealing of four wheeler vehicles within the State of Chhattisgarh and taking these vehicles outside the State of Chhattisgarh to the State of Madhya Pradesh and

selling them to different persons in the rural areas. For the purpose of selling these vehicles the present applicant used to provide fake fraudulent documents pertaining to the vehicles including R.C. Book and Insurance Policies on the basis of which the sale was done.

3. The counsel for the applicant submits that the present applicant is not involved in the stealing or robbing of the four wheeler vehicles. The only allegation against the applicant was that he was the person who used to prepare fake R.C. Book and other documents pertaining to the vehicles on the basis of which the sale was effected to villagers in the rural areas. Apart from the allegation of assisting the other accused persons by preparing fraudulent documents, the applicant as such is not involved in the stealing/robbing in any manner. He further submits that plain reading of the contents of the case diary itself would reveal that all the cases have been prepared by the police authorities sitting in the police station itself and have not in fact gone to the place of incident or have investigated it in any manner. He further submits that the fact that the police authorities had not conducted a proper investigation would stand established from different entries that are made in the case diary particularly the time mentioned in respect of the different cases and its places.

4. Contention of the counsel for the applicant is that the previous bail application was rejected taking note of the recoveries made from the possession of the present applicant. According to him, the laptop, certain blank RC Books, fake insurance policy papers and rubber stamps of different RTO were recovered from the possession of the applicant. He submits that all the seizure witnesses who have been examined have not supported the case of the prosecution and have turned hostile.

In the absence of any sufficient evidence by the prosecution to establish the recovery part, the conviction of the present applicant appears to be quite remote. He further submits that there is no allegation of the applicant being directly involved in the commission of theft of four-wheelers, rather the only allegation against the present applicant is that he used to facilitate in getting the fake documents in respect of the stolen vehicles with which the other accused persons could get the vehicles sold in different areas.

5. State counsel, on perusal of the record does not dispute the fact so far as the material witnesses pertaining to seizure and recovery having turned hostile. However, State counsel opposes the bail application on the ground that this Court has already considered the bail application of the applicant in the past and has rejected the same and that there is no further substantial development with which the applicant could be granted the benefit of bail.

6. Having heard the contentions put forth on either side and on perusal of the record we find that the allegation against the present applicant is that of assisting the other accused persons in preparing the fake documents with which the other accused persons or the person who commits theft of the vehicle could get the vehicle sold. The material witnesses so far as the allegation against the applicant is concerned would be the seizure witnesses. The record shows that the seizure witnesses examined till now have not supported the case of the prosecution and have turned hostile. When the seizure itself is not established by way of cogent evidence, this Court is of the opinion that prima facie a strong case for grant of bail has been made out.

7. Accordingly, the application for grant of bail is allowed. It is

directed that the present Applicant will be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
Judge**