

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 7348 of 2018**

Prasannajeet Malakar S/o Shri Narendra Malakar Aged About 19
Years R/o U.V. 52, Umarkot, District – Navrangpur (Orissa)

---- Applicant**Versus**

State Of Chhattisgarh Through SHO, Police Station Dhanora, District
Kondagaon, Chhattisgarh

----Non-applicant

For Applicant	:	Mr. Vaibhav A. Goverdhan, Advocate
For State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****08/10/2018**

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 15/2017 registered at Police Station Dhanora, District Kondagaon, Chhattisgarh for the offence punishable under Sections 396, 412 & 323 of Indian Penal Code.
2. The present applicant is in jail since 02.08.2017 in connection with the aforesaid Crime number.
3. The allegation against the present applicant as per the case of prosecution is that the present applicant in connivance with the other accused persons is said to have committed dacoity in the house of complainant- Deepak Rai and have looted an amount of Rs.9.5 lacs. The date of incident is 19.07.2017 and the present applicant has been arrested on 02.08.2017. The only incriminating material, which has been collected by the respondent is an amount of Rs.80,000/- from the possession of the present applicant.

4. The counsel for the applicant submits that the two of the accused persons, from whose possession also recovery of money was made namely Annu as well as Harshit have already been granted bail by this Court in MCRC No. 18/2018 vide order dated 20.03.2018. He submits that the present case is also similar and the present applicant also deserves bail. He further submits that apart from the recovery of Rs. 80,000/- there is no other material whatsoever collected by the prosecution with which the present applicant could be implicated. He further submits that even the Test Identification Parade becomes entirely doubtful in the light of the statement made by the complainant-PW/3 and his wife PW/4. He further submits that the other material witnesses particularly the seizure witnesses have all turned hostile during the course of trial and thus prayed for the applicant to be released on bail.
5. The State counsel however opposing the bail application submits that this Court on an earlier occasion so far as the bail of four of other accused persons namely Vasudev @ Vasu, Sujan @ Manoj, Navojit and Mahesh @ Monu have already been rejected vide MCRC No. 231/2018 vide order dated 07.03.2018 and considering the gravity of the case, the present applicant also does not deserve bail and prayed for the rejection of the bail.
6. Having heard the contentions put forth on either side and on perusal of record, particularly taking note of the fact that the material witnesses have turned hostile and so far as the identification part is concerned, the same becomes doubtful as the complainant-PW/3 and his wife-PW/4 have categorically stated that they were called at

the Police Station and it was told by the police officer to the complainant and his wife that these were the applicants, who have committed the offence of robbery at their house.

7. Given the aforesaid facts and circumstances of the case, and also taking note of the period of custody undergone, this Court is of the opinion that prima facie a strong case has been made out for grant of bail to the applicant. Accordingly, the present application for grant of bail is allowed.
8. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with two local sureties in the like sum to the satisfaction of the concerned Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge

Ved