

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8279 of 2018

- Surjeet Singh S/o Baldev Singh, Aged About 30 Years, R/o Sector -22, Packet -15, House No.75, Police Station Begampur, District Rohini, Outer Delhi (India)

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Supela Out Post Vaishali Nagar, District Durg Chhattisgarh., District : Durg, Chhattisgarh

----Non-applicant

For Applicant – Shri Arun Kochar, Advocate.

For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

14-11-2018

1. This is third bail application filed by the applicant for grant of bail. The first application for bail, MCRC No.2781/2018 was rejected on merits on 21-06-2018 and the second bail application MCRC No.5268/2018 was withdrawn with liberty to revive the same after six months.

2. This application has been filed under Section 439 of the Cr.P.C. before this Court by the applicant for grant of regular bail. The applicant has been arrested on 06-09-2016 in connection with Crime No.1083/2014 registered at P.S. - Supela, Out Post Vaishali Nagar, District Durg, Chhattisgarh for the offence under Section 420, 467, 468, 471, 120-B, 306, 34 of the IPC.

3. It is submitted by learned counsel for the applicant that now the circumstances have changed. Earlier in this case, the offence under Section 306 of the IPC was registered, because of which this Court was not inclined to grant bail to the applicant. The applicant had challenged the framing of charge under Section 306/34 of the IPC before this Court in Criminal Revision No.375/2017, the revision was allowed vide order dated 20-03-2018 and the framing of charge under Section 306/34 was set aside, hence, subsequent to

that, the remaining offences are triable by the JMFC and charges have been framed accordingly. JMFC has power to sentence maximum upto three years and this applicant is in jail since more than three years. Similarly placed co-accused Niteen Sorya @ Raj has been granted bail in MCRC No1790/2018 vide order dated 02-04-2018 and co-accused Sushant Basak has been granted bail in MCRC No.5797/2017 vide order dated 15-05-2018 by coordinate Bench of this Court. Hence, on the ground of parity, this applicant prays that he may be granted bail.

Reliance has been placed by learned counsel for the applicant on the judgment delivered by Hon'ble the Supreme Court in the matter of **Sundarjas Kanyalal Bhathija and others Vs. The Collector, Thane, Maharashtra and others**, AIR 1990 SC 261, on the point of following precedent. On behalf of the applicant reliance has also been placed on the judgment delivered by the High Court of Madhya Pradesh in the matter of **Kailash & Ors. Vs. State of M.P.**, 2002 (I) MPJR 355, on the point of principles for grant of bail on ground of parity.

4. Learned counsel for the State/non-applicant opposes the application submitting that the application MCRC No.5268/2018 was withdrawn with liberty to revive the application after six months in case the trial is not concluded by then. Despite this liberty and direction of this Court, this application has been brought within three months, hence, it should not be entertained. It is also submitted that the first application has been decided on merits and there is no scope to revive the same order. Hence, the application may be rejected.

5. Heard learned counsel for the parties and perused the documents.

6. The first bail application of the applicant has been rejected on merits and the reference to the orders that has been made in the submission, all those orders were passed before the date of rejection of the first bail application on 21-06-2018 which shall be deemed to have been considered

while passing the previous orders. Hence, under this circumstance, it cannot be held that any change in circumstances has occurred. Therefore, this application appears to be without any substance.

7. Consequently, the application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge