

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Reserved on 25-2-2019****Delivered on 27-2-2019****MCRC No. 725 of 2019**

Dinesh Kumar Sahu son of Vikramaditya Sahu, aged about 38 years,
resident of village Kumhali, Tahsil Patan, District Durg (CG)

---- Applicant**Versus**

State Of Chhattisgarh through Station House Officer, Police Station
Utai, Durg, Distt. Distt. Durg, (CG)

---- Respondent

For applicant	Dr. N.K. Shukla, Sr. Adv. With Mr. B.P. Singh, Adv.
For non-applicant	Mr. Vikram Dixit, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**CAV ORDER**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
2. The applicant has been arrested in connection with Crime No 438/2018 registered in Police Station Utai, Distt. Durg (CG) for offence punishable under Section 5 of the Explosive Substance Act, 1908 and Section 120-B of the Indian Penal Code.
3. Prosecution story in brief is that on the information of the informant, Sub Inspector Satish Kumar Puria posted at Police Station Utai seized from the godown of quarry situated at village Deurjhal huge quantity of explosive. Applicant was in exclusive possession of that explosive. Applicant did not have any licence to possess the same.
4. Counsel for the applicant argued that the applicant is innocent and has been falsely implicated. He further argued that applicant is partner of M/s. Samleshwari Minerals. One partner Ashok Kumar Singh had obtained a lease from Collector Durg for lime stone excavation for village Patora Khasra No. 459 Rakba 0.90 hectare, Patan Distt. Durg which was valid upto 18-10-2009 to 17-10-2012. In that quarry M/s. Pioneer Enterprises was authorized by M/s. Samleshwari Minerals to

blast. Applicant has no concern with explosive used by M/s. Pioneer Enterprises. M/s Pioneer Enterprises had the licence to use and store the explosive. He drew my attention on the statements of some employees of Samleshwari Minerals in which it has been stated that as blasting work was incomplete, explosive was stored. Thus, applicant may be released on bail.

5. On the other hand, the State Counsel opposed the bail application.

6. The material available in the case diary reveals that M/s Samleshwari Minerals was proprietary firm. Applicant was not partner in M/s. Samleshwari Minerals.

7. As per the alleged partnership deed which is actually an agreement deed, Ashok Kumar Singh and applicant were agreed that management, operation of their business shall be done by the applicant.

8. As per the Rule 56 of CG Secondary Mineral Rules, a lessee shall not transfer lease to anyone.

9. The material available on the record reveals that the blaster of M/s. Pioneer Enterprises had made entries in the record, of more explosive than actually used explosive, to give profit to applicant. The remaining explosive was stored in godown within knowledge of applicant.

10. As per the reply of the notice applicant did not have legal licence to store the explosive.

11. Looking to the facts and circumstances of the case, looking to the other evidence available on record against the applicant and the seriousness of the offence, and the impact of granting bail to the applicant, this Court is not inclined to grant bail to the applicant.

12. The application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge