

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 1526 of 2019

Bal Mukund Verma, S/o. Nanhu Verma, Aged About 64 Years, R/o. Village Achholi, Police Station Khairagarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : District Magistrate, Station House Officer, Police Station : Khairagarh, District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	: Mr. Apurv Goyal, Advocate
For State/respondent	: Mr. H.S. Ahluwalia, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

19/03/2019

1. This is the third bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.193/2017, registered at Police Station – Khairagarh, District – Rajnandgaon (C.G.), for the offence punishable under Section 147, 148, 149, 307 and 302 of the Indian Penal Code. The first bail application was dismissed as withdrawn with liberty to revive the same after examination of the material witnesses vide order dated 11.12.2017 in M.Cr.C. No.6965/2017. The second bail application was dismissed on merits vide order dated 15.05.2018 in M.Cr.C. No.1671/2018 and this third bail application has been brought on the ground that circumstances have changed.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. Circumstances have changed in favour of the applicant. The statement of the witnesses have been recorded by the Court below. Ganga Bai (P.W.-7), who is the eye-witness of this case has made contradictory and discrepant statement before the Court, because of which, she is not reliable witness. None of the other witnesses, who have been examined so far have made any direct allegation against this applicant. Another eye-witness of the incident namely Kanhaiya Sahu (P.W.-10) has not supported the prosecution case. Some of the co-accused persons have been granted bail by this Court and this applicant is similarly placed. Therefore, it is prayed that the applicant may be enlarged on bail.
3. On the other hand, learned counsel for the State opposes the bail application submitting that already the application for grant of regular bail of this applicant has been rejected on merits. The statement of the witnesses on which the applicant has relied needs appreciation for giving finding whether they are speaking truth or not, which is a matter of appreciation and it can be done only by the trial Court, hence, no case is made out for grant of bail. Therefore, the application be rejected.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. Earlier this Court has held that this applicant is not entitled for grant of bail according to the merits present in this case. Reference that has been made to the one of the main witness (P.W.-7) needs appreciation

as it is not so that she is a hostile witness, therefore, the contradiction, omissions and improvements, if any, in her statement has to be examined by the Court below in trial to arrive at a finding whether the witness is truthfulness or not, which can not be done by this Court while exercising the jurisdiction under Section 439 of Cr.P.C., therefore, I do not find any change in circumstances in favour of the applicant to again reconsider the bail application of the applicant.

6. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram