

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1658 of 2019**

- Rajendra Singh Thakur S/o Khorbahra Aged About 27 Years R/o Navapara (Amarpur), Thana Pandaria, District Kabirdham CG

---- Applicant

Versus

- State of Chhattisgarh Through The Police Station Lormi District Mungeli CG

---- Respondent

For applicant	Mr. Sachin Singh Rajput, Adv.
For non-applicant/State	Mr. Vikram Dixit, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****28-3-2019**

1. This is first bail applications under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. Perused the case diary provided by the learned counsel for the State in connection with crime No. 462/2018 registered at Police Station – Lormi, District- Mungeli (C.G.) for the offence punishable under Sections 392, 398, 411/34 of IPC and 25, 27 of Arms Act.
3. Case of the prosecution, in brief is that complainant Rajkumar Dadsena is a jeweler. On 26/10/2018, at about 3:00 Pm he was returning back from the rural market of village Dulnakar. Ten pairs Doga anklet, 15 pairs silver anklets, 5 silver bracelets (Aainthi), one silver waist chain, toe rings and other silver ornaments were kept in a bag. Total weight of ornaments was 5 Kg worth was Rs. 2,00,000/-. One unknown person came by motorcycle and dashed his motorcycle. He showed the revolver and looted the bag containing ornaments and ran away from the spot.
4. On the memorandum of the applicant, one electronic weighing machine, plastic rapper of Sachin jeweler, Rs. 892/- were seized from him. One silver anklet, screw with pench, two penchises and one iron cutter were also seized from him.
5. Counsel for the applicant submits that applicant is innocent and has been falsely implicated. Co-accused Pramod Soni and Narendra Gendle have been granted bail by this Court vide order dated 6-2-2019 passed in MCRC No. 10054/2018 and MCRC No. 115/2019

respectively. His case is also identical to that of them. Thus, he may also be released on bail.

6. On the other hand, counsel for the State opposes the bail application, however, submits that there is no criminal antecedent against the applicant.
7. Earlier this Court has communicated to all the judicial officers of the sub-ordinate courts for future guidance the order passed in MCRC No. 8487/2018 dated 29-11-2018 which was passed relying on the order passed by the High Court of Madhya Pradesh in **Deepak Kumar Ratre -v- State of Chhattisgarh** (2001(2) MPHT 89 (CG)], relevant portion of which is again reproduced below for ready reference :-

“The grant of application in favour of some of the accused should earnestly persuade a judicial officer to grant bail to the co-accused if the allegations are identical or there are no material differences in the allegations. This Court had been repeatedly saying that if the allegations are identical or almost similar then similar should be treated similarly. I fail to understand as to why a judicial officer should act arbitrarily and in such a whimsical manner in rejecting the application for grant of bail. If the three named persons were granted bail, by any other judicial officer, then so long as the said order is in existence or is not set aside by any revisional court then such order would provide a foundation in favour of the co-accused for his release. It would be hight of the judicial impropriety to say that because some Judge had granted bail to some of the co-accused, the same order would not enure to the benefit of the co-accused before any other Judge.”

8. Earlier this Court has granted bail to co-accused Pramod Soni and Narendra Gendle as detailed above. Some ornaments were seized from co-accused Pramod Soni and Narendra Gendle at the instance of their own memorandum. In the test identification parade, the complainant had identified some seized silver articles. Later on the complainant filed an affidavit that the seized ornaments are not belonging to him. His looted silver articles were marked as 'Sachin' and 'Kalash'. The alleged seized ornaments have different marks. In these circumstances, this Court had granted bail to them.
9. The Addl. Sessions Judge, Mungeli has rejected the bail application of the applicant on the ground that the grounds on the basis of which the

bail to co-accused Pramod Soni and Narendra Gendle was granted are different from the ground raised by the applicant.

10. The Additional Sessions Judge, Mungeli had not stated that the case of the applicant is more severe than that of co-accused Pramod Soni and Narendra Gendle who were enlarged on bail by this Court.
11. Looking to the entire material available on record, it is ample clear that the case of the applicant is not more severe than that of co-accused Pramod Soni and Narendra Gendle. In other words, case of the applicant is less severe than that of co-accused Pramod Soni and Narendra Gendle. The Addl. Sessions Judge, Mungeli did not apply the ratio laid down in **Deepak Kumar Ratre** (supra), which she should be applied.
12. In view of above facts and circumstances of the case, the application is allowed. It is directed that if applicant furnishes one solvent surety for a sum of Rs.25,000/- along with a personal bond of like sum to the satisfaction of the concerned Court, he be released on bail.
13. CC as per rules.

Sd/-
(Sharad Kumar Gupta)
Judge