

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1880 of 2019

- Lokesh Hirwani (Sahu) S/o Shri Biselal Sahu Aged About 30 Years R/o In Front Of Naya Sabji Mandi, Nayapara Ward No. 01, Durg District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The District Magistrate, Durg District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Non-applicant

For Applicant	: Shri Rohit Sharma, Advocate.
For Non-applicant	: Ms. S. Mishra, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta **Order On Board**

03.05.2019

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant has been rejected by this Court on 07.02.2019 in MCRC No. 519 of 2019 considering the prima facie case against the applicant.
3. Perused the Case Diary provided by the learned counsel for the State in connection with crime No.1066/2018 registered at Police Station – City Kotwali, District – Durg (C.G.) for the offence punishable under Section 420, 201 of the Indian Penal Code.
4. Case of the prosecution, in brief is that in the year 2015-16 complainant Smt.Purnima Sahu and the applicant entered into an agreement for construction of a house on the land of the said complainant. Construction was to be done by the applicant. The applicant obtained passbook, Rin Pushtika from the complainant. The constructed house along with land was sold by the registered sale deed by the complainant to one Anurag Shrivastava. The buyer Anurag Shrivastava had given a cheque of Rs.24 lacs to the complainant. The complainant had given the cheque to the applicant for depositing the same in her account. The applicant deposited the said cheque in her account, subsequently he transferred the said amount from her account to his bank account.
5. Learned counsel for the applicant submits that wife of the applicant is pregnant no other family members is in his family, date of arrest and the time are different in some papers, in Clause-12(VII) of memo of arrest it has been mentioned that there is no possibility of absconding by applicant, FIR is delayed and delay has not been explained, FIR is in violation of the Negotiable Instrument Act, thus, he may be released on bail.
6. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no criminal antecedent against the applicant.
7. Above mentioned facts and circumstance of the case raised by the counsel for the applicant are the subject matter of scrutiny. It is well settled legal position that at the time of dealing with bail application Court neither can scrutinize nor appreciate the evidence. At this stage this Court cannot see the merits and demerits of the case.
8. Counsel for the applicant further relied on judgment passed by the Hon'ble Supreme Court in **Sanjay Chandra Vs. CBI** in Criminal Appeal No. 2178/2011 and analogues appeals decided on 23.11.2011.
9. The facts and circumstance of the case in **Sanjay Chandra (supra)** are different from the present case.
10. There is no change in the circumstance which may entitle the applicant to be released on bail in second round of litigation.
11. Looking to the entire materials available on record, the present bail application is rejected.
12. However, the trial Court is directed to expedite the trial and dispose off the case as early as possible. The trial Court is further directed to furnish date wise progress report after two months from the date of receipt of copy of this order.
13. Certified copy as per rules.

Sd/-
(Sharad Kumar Gupta)
JUDGE