

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2147 of 2019**

Saiyad Majid Ali, S/o Saiyad Hashim Ali, aged about 40 years, R/o Takiyapara,
Durg, Tahsil District Durg (CG). **---- Applicant**

Versus

State of Chhattisgarh, through District Magistrate Durg, District Durg (CG).

--- Non-applicant

For Applicant	: Mr. Amiyakant Tiwari, Advocate
For Non-applicant	: Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

09.04.2019

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.713/2018 registered in Police Station Supela, District Durg for the offence punishable under Section 406/34 of Indian Penal Code.
3. Case of the prosecution, in brief, is that complainant Rajendra Mishra had purchased a vehicle bearing registration No.CG-07/AX7765. The said vehicle was financed by TATA Motors Finance Company. On 11th May, 2017, an agreement for sale was executed between the said complainant and applicant regarding the said vehicle. It was condition in the said agreement that all due installments will be paid by applicant to the said finance company. The complainant handed over the possession of the said vehicle to the applicant. Thereafter, the applicant neither paid the entire due installments nor handed over the possession of the said vehicle to the said complainant.
4. Counsel for the applicant submits that the applicant has not committed any offence and has been falsely implicated in the case. He further submits that complainant had executed the said agreement behind back of said finance company. The applicant is in jail since 06.08.2018 and nothing incriminating material has been seized from the possession of the applicant. Co-accused Chandrakumar Sahu has already been released on bail by co-ordinate Bench of this Court on 26.10.2018 passed in M.Cr.C. No.6977/2018 and co-accused Moh. Asif Gani has already been released on bail by this Court vide order dated 09.01.2019 passed in M.Cr.C. No.9770/2018 and as such the applicant may be released on bail.
5. On the other hand, counsel for the State opposes the bail application. He submits that five cases of similar types have already been registered against the applicant hence the applicant is not entitled for grant of bail.
6. Cases of the co-accused Chandrakumar Sahu and Moh. Asif Gani are in different footing. The said co-accused had not executed an

agreement with the complainant. The case of the applicant is more severer than the cases of co-accused Chandrakumar Sahu and Moh. Asif Gani, who were released on bail by this Court.

7. Looking to the above mentioned facts and circumstances of the case, looking to the material available on record against the applicant and looking to this fact that five cases of similar types have already been registered against him, looking to the seriousness of the offence; and looking to the impact of granting bail to the applicant on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicant. Consequently, the bail application is rejected.

8. Certified copy as per rules.

SD/-
(Sharad Kumar Gupta)
JUDGE

L/-