

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2395 of 2019**

- Mujaffar Khan @ Kallu S/o Shri Sattar Khan Aged About 28 Years R/o New Chandniya Para, Janjgir, Police Station And Tahsil Janjgir District Janjgir Champa Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Sakti, District Janjgir Champa Chhattisgarh

---- Respondent

For applicant	Mr. Amit Singh, Adv.
For Respondent/State	Mrs. M. Asha, PL.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16-4-2019**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant. His first bail application MCRC No. 7013/2018 was dismissed by this Court as not pressed vide order dated 7-1-2019.
2. The applicant has been arrested in connection with Crime No. 192/2018 registered in police station Sakti, Distt. Janjgir Champa (CG) for offence punishable under Section 397 of the IPC and Section 25 and 27 of the Arms Act.
3. Perused the case diary.
4. Prosecution story in brief is that in the intervening night of 29/30-3-2018 at about 2 am at village Portha, six persons entered in the house of the complainant Sanjay Agrawal. Out of six, five persons were masked. One person pointed pistol on the head of the said complainant. Remaining five persons demanded money and pressed the mouth of his uncle Mukesh. Hearing the sound, his father came and gave Rs. 1,50,000/- to them. On the memorandum of the applicant, one pistol, cash Rs. 5,000/-, one motorcycle make Honda Shine – CG 11 AA 6591, and a mobile were seized from him.
5. Counsel for the applicant argued that the applicant is innocent and falsely implicated. He further submits that one seizure witness has turned hostile in the trial Court. Main accused is Man Singh Khunte. Five other co-accused persons have been released on bail. He drew

my attention on some paragraphs of photocopy of statement of complainant. Hence he may be released on bail.

6. On the other hand, the State Counsel opposed the bail application. However he submits that no criminal antecedent of the applicant is reported in the case diary.
7. Mere turning hostile of a seizure witness itself is not a sufficient ground for bail to the applicant. At this stage, this Court cannot scrutinize or appreciate the evidence. This is settled legal position that while deciding a bail application, Court cannot touch merit or demerit of the case.
8. Looking to the facts and circumstances of the case, looking to the seriousness of the alleged offence and also the impact of granting bail to the applicant on the society, this Court is not inclined to grant bail to the applicant.
9. Consequently, the MCRC is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge