

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2238 of 2019**

- Gyanprakash S/o Santosh Das Manikpuri Aged About 34 Years R/o Village Nagoi, Police Station Takhatpur, District Bilaspur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Sakri, District Bilaspur Chhattisgarh

----Non Applicant

For the Applicant : Mr. Rajeev Kumar Dubey, Advocate

For Non Applicant : Mr. Vikram Dixit, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****16.04.2019**

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 was rejected by this Court on 30.11.2018 passed in MCRC No.8762 of 2018 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.219/2018 registered at Police Station- Sakri, District- Bilaspur (C.G.) for the offence punishable under Section 420 of Indian Penal Code.
4. Case of the prosecution in brief is that complainant Paltan Bhaskar is aged about 70 years old illiterate person, resident of Village Pand. He had deposited Rs.12 Lakhs in State Bank of India Branch Sakri, which he has got from the sale of his land. At the time of opening of the account applicant had filled all the entries of the form and obtained the signature of the complainant. He had filled his mobile number in the form. After depositing the form, bank had given two cards, one card he kept along with him and another card he gave to the complainant. On 13.07.2018 complainant come to know that the said amount has been withdrawn.
5. Counsel for the applicant submitted that complainant Paltan Bhaskar has been examined by the trial Court. Looking to Para 6,7 and 10 of his cross-examination applicant may be released on bail. He drew my attention on Para 6,7 and 10 of the certified copy of statement of complainant, which is the part of bail application.
6. On the other hand, learned counsel for the State opposes the bail application, he further submits that there is no criminal antecedent against the applicant.
7. P.W.-2 complainant Paltan Bhaskar is not a total hostile witness. He had stated something against the applicant during Examination-In-Chief though, he had given some statement in favour of applicant during his cross-examination. What would be the effect of the statement of complainant, is the subject matter of scrutiny of evidence. At this stage, this Court can not scrutinize the evidence. This is well settled legal position that while considering the bail application this Court can not touch the merits and demerits of the case. The appreciation of the evidence can be done only by the trial Court.
8. Looking to the facts and circumstances of the case, looking to this fact that there is no change of circumstances which may entitle the applicant to enlarge on bail in second round of litigation, thus second bail application is rejected.
9. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
Judge