

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 3067 of 2019**

Vikas Naiya @ Tapan S/o Vijay Naiya, Aged About 31 Years, R/o Subhash Park, Village- Suwapara, P. S. - Sonarpur, District South 24 Pargana, West Bengal

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police
Station- Mohan Nagar, District Durg, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Subham Tripathi, Advocate
For Respondent/State	:	Ms. Astha Shukla, P.L.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****06/05/2019**

This is the repeat bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 07.06.2018 in connection with Crime No. 141/2018 registered at Police Station- Mohan Nagar, District Durg, (CG) for the offence punishable under Sections 457 & 380 of IPC.

2. The earlier bail application stood rejected vide order dated 30.10.2018.

3. Counsel for the applicant submits that the repeat bail application has been filed considering the period of custody undergone by the applicant and also the delay being caused in early conclusion of trial. Contention of the counsel for the applicant is that except for recovery of a mobile phone from the possession of the applicant there is no other material which has been recovered from his possession. He further

submits that the co-accused Shekh Altaf has already been granted bail in MCRC No. 1654 of 2019 vide order dated 28.03.2019 and therefore, on the ground of parity, the applicant also deserves to be released on bail.

4. State counsel, however, opposing the bail application submits that since the bail application of the applicant already stood rejected on merits in the past, there is no occasion for substantial change of the circumstances for entertaining the second bail application. Hence, prayed for rejection of the bail application.

5. Having heard the contentions put forth on either side and on perusal of the record, what clearly reflects is that the petitioner has already undergone custody for a period of about 11 months. The case of the prosecution is that the applicant along with other accused persons is said to have committed theft in the house of complainant Samim Akhtar on 15.04.2018 and stolen total articles worth rupees 16 lakhs from the house of the complainant. From the possession of the applicant only one mobile was recovered which is said to be belonging to the complainant. There is no other recovery made from the possession of the applicant. The co-accused Shekh Altaf has already been released on bail by this Court vide order dated 28.02.2019 in MCRC No.1654 of 2019. It has been mentioned by the counsel for the applicant that the criminal case has not been started and that only charge sheet has recently been filed before the trial Court and there is no likelihood of an early final disposal of the trial particularly when there are other accused persons who are still absconding.

6. Given the aforesaid factual details and also taking note of the period of custody undergone and the recovery made from the possession of the applicant, this Court is of the opinion that prima facie a strong case

for grant of bail has been made out.

7. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
Judge**