

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.4706 of 2019**

- Mr. Alok Kumar Agrawal S/o Shri Radhe Shyam Agrawal Aged About 50 Years R/o In Front Of Tejswani Girls Hostel, Parijat Extension, Nehru Nagar, Bilaspur Chhattisgarh Posted As Assistant Engineer (U/s) O/o The Chief Engineer, Mahanadi Project, Raipur Chhattisgarh.

---- Petitioner**Versus**

- The State Of Chhattisgarh Through Superintendent Of Police, State Economic Offences Wing Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Aayush Bhatia, Advocate
For Respondent/State	:	Shri Ghanshyam Patel, Govt. Advocate

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/08/2019**

Heard.

1. Applicant's application for grant of bail has been rejected by the learned trial Court on 26-09-2018. First bail application was rejected by this Court on 11-05-2015. Thereafter, the applicant approached the Supreme Court. Orders passed by the Supreme Court from time to time in the petition filed by the applicant would show that he was granted interim bail to seek treatment and finally, the petition was disposed of on 14-09-2018 on the submission that the petitioner will surrender and apply for regular bail. Thereafter, the applicant surrendered on 22-09-2018 and again applied for grant of regular bail. Vide order dated 26-09-2018, the bail application has been rejected by the learned trial Court.

2. Allegation against the applicant as noted by this Court, while rejecting his first bail application on 11-05-2015 is that the applicant while posted as In-charge, Executive Engineer, Water Resources Division, Bilaspur, in conspiracy with other accused, forged documents and records and thereby misused and abused his official position and not only caused financial loss to the government, but also amassed huge wealth through corrupt means, which is alleged to be disproportionate to his known sources of income.

3. It is argued by learned counsel for the applicant that the applicant has remained in jail during trial for almost 3 & 1/2 years. It is argued that though, earlier bail application was rejected by this Court, taking into consideration the material on record and the nature of allegations, now the application has been moved seeking grant of bail mainly on the ground of long detention of almost 3 & 1/2 years and that the trial is not likely to be concluded early, because, out of 302 prosecution witnesses, only 57 witnesses have been examined by now. He would also submit that except applicant, all other accused of this case, have been enlarged on bail. His next submission is that the applicant is also suffering from polio and he needs proper treatment in higher centers. He would submit that earlier, he was granted interim bail by the Supreme Court also, during which period, he sought treatment and even now, he needs proper treatment, because the applicant's condition is deteriorating day by day and the kind of treatment, he is in need of, is not available in the Government Hospital, as would be clear from reply dated 28-09-2018. It is submitted that now the applicant is suffering from 71% disability, as certified by the doctor, which is clear from certificate dated 06-04-2018. It is also submitted that the applicant is not likely to flee away from justice and did not misuse the interim bail, which was granted by the Supreme Court and in compliance of the order passed by the Supreme Court, he surrendered also on 22-09-2018 and applied for regular

bail before the Court below. He would also submit that to ensure presence of the applicant, appropriate onerous conditions may be imposed and he is ready and willing to abide by any such conditions.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that earlier bail applications of the applicant were rejected by this Court on number of occasions and though, interim bail was granted by the Supreme Court, finally he was directed to surrender vide order dated 14-09-2018. It is next submitted that though, the applicant is suffering from certain disability, in view of the seriousness of the allegations, amassing huge wealth by corrupt means, the applicant is not entitled to bail. It is also argued that certain disability and other health problems, which the applicant is facing will be taken care of, even when he remains in jail, as proper medical facilities are available there. Learned State counsel would further argue that the applicant cannot seek parity with other accused, because the applicant is the main accused of the case.

5. First application for grant of bail was rejected by this Court on 11-05-2015, taking into consideration the seriousness of the allegations against the present applicant. Thereafter, repeat bail application filed subsequently were also rejected. Thereafter, the applicant approached the Supreme Court, where he was granted interim bail for facilitating his treatment. Finally, vide order dated 14-09-2018, the Supreme Court granted him liberty to apply for grant of regular bail, in obedience of which, the applicant surrendered on 22-09-2018 and applied for grant of regular bail, which has been rejected on 26-09-2018 by the Court below. This Court also repeatedly rejected the bail application of the applicant mainly taking into consideration that bail application filed by the applicant is pending consideration before the Supreme Court. The applicant has

undergone almost 3 & 1/2 years detention. The material on record also shows that the applicant is receiving treatment and his disability has gone up to the extent of 71%, as certified by the doctors. Out of 302 prosecution witnesses, only 57 witnesses have been examined by the prosecution, by now, which means large number of witnesses are yet to be examined. Thus, the trial is not likely to be concluded early.

6. Taking into consideration the entire circumstances of the case, at this stage, particularly taking into consideration long detention, large number of witnesses are yet to be examined and also looking to the health condition of the applicant, I am inclined to grant bail to the applicant.

7. Accordingly, the application is allowed, subject to the following conditions:

(A) The applicant shall be released on bail on furnishing a personal bond of Rs.50,000/- along with two local sureties of the like amount to the satisfaction of the trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted from appearing before the trial Court.

(B) The applicant shall in no manner tamper with the prosecution witnesses or make any attempt to protract trial.

(C) The applicant shall submit passport, if any, in his possession, before the trial Court, at the time of furnishing bail.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E