

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5078 of 2019**

Sheikh Sahil, son of Sheikh Gaffar, aged about 19 years, Resident of Behind Nav Bharat Press, Rajbandha, Maidaan, Police Station Moudahapara, District Raipur (CG).

---- Applicant

**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Maudahapara, Civil and Revenue District Raipur (CG).

---- Non-applicant

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| For Applicant     | : Ms. Sunita Sahu, Advocate     |
| For Non-applicant | : Mr. Vinod Tekam, Panel Lawyer |

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**Hon'ble Shri Justice Sharad Kumar Gupta**

**Order On Board**

**23.08.2019**

1. This is the second bail application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.233/2018 registered at Police Station Maudahapara, Civil and Revenue District Raipur (CG) for the offence punishable under Sections 386, 506-B of Indian Penal Code and Sections 25 & 27 of Arms Act.
2. The first bail application of the applicant was dismissed as withdrawn by this Court vide order dated 12.03.2019 passed in M.Cr.C. No.1361/2019.
3. Prosecution story in brief is that on 25.11.2018 at about 7:00 p.m. the complainant Surfaraj Khan sat at Hooka Bar Hotel, at that time, applicant and his associates Afjal, Wahid & Buty reached there and demanded Rs.3000/- in lieu of ear-rings from the said complainant. The applicant pointed country made pistol on his head and gave threat to kill

him. One country made pistol and two cartridges were seized from him.

4. Counsel for the applicant submitted that the applicant is an innocent person and has been falsely implicated in the case. She further submitted that complainant Surfaraj Khan (P.W.-2) has been examined by the trial Court. He did not support the prosecution case, turned hostile. In support of her case, she drew my attention on photocopy of statement of complainant Surfaraj Khan (P.W.-2).

5. Counsel for the State opposed the bail application and submitted that 05 other criminal cases, out of which, 01 under Arms Act and 04 under Indian Penal Code.

6. Though the complainant has turned hostile before the trial Court and did not support the prosecution case. But in the case in hand Investigating Officer is to be examined to prove alleged seizure.

7. Looking to the above mentioned facts and circumstances of the case, looking to the alleged seizure and looking to this fact that 05 other criminal cases have already been registered against the applicant, 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 second bail application is rejected.

8. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)  
**JUDGE**

L/-