

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6532 of 2019

Afatab Siddiqui, S/o. Mateen Siddiqui, Aged About 40 Years, R/o. Nayapara, Ttayapara Chowk, District Raipur Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station- Pandri Police, District Raipur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Kishore Bhaduri, Advocate with Mr. Sabyasachi Bhaduri, Mr. Sunny Agrawal, & Ms. Juhi Jaiswal, Advocates
For Respondent/State	: Mr. Ghanshyam Patel, G.A.
For Objector	: Mr. Kashif Shakeel, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

23/10/2019

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.23/2019, registered at Police Station – Pandri, District – Raipur (C.G.) for the offence punishable under Section 420, 467, 468, 471/34 of the Indian Penal Code. The first bail application of the applicant was dismissed on merits vide order dated 18.07.2019 in M.Cr.C. No.1087 of 2019.

2. It is submitted by the learned counsel for the applicant that in the earlier order passed, this Court has observed in the Paragraph-8 that there is evidence present against this applicant and others regarding manipulation in bank account of the victimized person Mohd. Idris and regarding manipulation of sale deed. It was also observed that investigation is pending, therefore, under these circumstances, this Court did not find proper to grant bail to the applicant and others. It is submitted that now the circumstances have changed. Firstly, the investigation has been completed and charge-sheet has also been filed. Charge has been framed against the applicant and there is no charge regarding manipulation of bank documents. Further the applicant is in jail since more than three months. No purpose is going to be served, if he is kept in continuous detention. In this particular case, the complainant is not the aggrieved person himself but third person, therefore, the case has a peculiarity.

3. Counsel for the applicant places reliances on the judgment of Supreme Court in case of **Sanjay Chandra Vs. Central Bureau of Investigation**, reported in **(2012) 1 SCC 40**, in which it has been held that the object to bail is to secure the appearance of the accused persons at this trial by reasonable amount of bail. The object of bail is neither punitive nor preventative, hence the seriousness of charge can not be made a ground to reject the application. Reliance has also been placed on the judgment of Supreme Court in case of **State of Kerala Vs. Raneef**, reported in **AIR 2011 SC 340** and in case of **Gurcharan Singh & Ors. Vs. State (Delhi Administration)**, reported in **(1978) 1 SCC 118**. It is further argued that in case of **Dataram Singh Vs. State of Uttar Pradesh & Another**, reported in **(2018) 3 SCC 22**, the

Supreme Court has observed that in consideration of bail, there is need of humane approach. Grant and refusal of bail is entirely upon discretion of Judge, it must be exercised in a judicious manner and in a humane way. It is prayed that the applicant is ready to abide all the conditions imposed while releasing him on bail. Therefore, it is prayed that the applicant may be enlarged on regular bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that it is a case of huge fraud, in which there is serious allegation against the applicant that he has forged the documents and cheated the victim, who was sufferer of memory loss and thus he has taken undue advantage of his mental situation. Although charge-sheet has been filed as the same had to be filed for the reason that the period of 90 days from the date of arrest of the applicant, which was going to be completed. The investigation in this case is still going on. The report of handwriting expert has also been received, which confirms the different authorship of disputed documents and the specimen signatures of the victim, hence in such situation, the applicant, who is economically well of influential, who can definitely influence the investigation, which is yet to be completed, hence, the application be rejected.
5. Counsel for the objector adopts arguments made on behalf of the State counsel. It is submitted that there is practically no change in circumstances since the earlier rejection of the application of the applicant. Although charge-sheet has been filed and charges have been framed but on the date of hearing on 17.10.2019, when the prosecution witnesses were present, the defence itself has sought

adjournment. There is every possibility that the applicant, if granted bail will tamper with the investigation, which is going and also influence the witnesses. In the peculiar nature of this case, the person victimized himself is mental incapable, there is evidence to show that he has been used by this applicant and other co-accused persons because of which the victim has made statement in favour of the applicant and other co-accused persons without having knowledge, intention or without knowing the consequences. Result, however, is clear that victim has been cheated and the accused have made wrongful gain to a huge extent. Reliance has been placed on the judgment of Supreme Court in case of State of ***Maharashtra Vs. Captain Buddhikota Subha Rao***, reported in ***1989 Supp. (2) SCC 605***, ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav & Anr.***, reported in ***(2004) 7 SCC 528*** and in case of ***Virupakshappa Gouda & Anr. Vs. The State of Karnataka & Anr.***, reported in ***(2017) 5 SCC 406***, and it is submitted that parameters have been very clearly laid down and it is discretion of the Court, which after considering on the material present, has to be exercised in grant or refusal of bail. In that circumstances that have been narrated herein above, the applicant is not entitled for grant of bail.

6. I have heard the learned counsel for both the parties and perused the case diary.
7. In the earlier application M.Cr.C. No.1087 of 2019, the merits of the case have been discussed in detail. Therefore, there is no necessity to go into the merits of this case. Further it is repeat bail application made on the ground of change in circumstances. Filing of the charge-sheet

alone does not change the circumstance even though the charges have been framed. It has been brought to the notice of this Court that the defence side itself has sought adjournment in the trial. This fact also needs to be taken notice that the investigation in this case is still continuing and the report of handwriting expert, which is present in the case diary itself is evidence against the applicant. The specimen signatures of the victim have been examined regarding which different authorship has been reported. There is apprehension of the objector that the investigation as well as the witnesses can be influenced is also taken into consideration, therefore, I do not find that there is change in circumstances. On the contrary circumstance that existed are still continuing, therefore, this Court is of the opinion that present is not a fit case, in which, the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge