

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7526 of 2019**

Birjanand Mehar S/o Kamal Mehar Aged About 26 Years R/o Village -
Gohirapadar, Police Station - Bangomunda, Civil And Revenue District
Balangir (Odisha)., District : Balangir, Orissa

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Tikrapara, Civil And Revenue District Raipur Chhattisgarh., District :
Raipur, Chhattisgarh

---- Respondent

For the Applicant	:	Shri Devesh G. Kela, Advocate
For the State	:	Shri Praveen Shrivastava, P.L.

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**03/12/2019**

1. This is the second bail application under Section 439 of the CrPC. Earlier first bail application was dismissed as withdrawn by this Court on 25/06/2019 in MCRC No. 3075/2019.
2. Perused the case diary provided by the counsel for the State in connection with the Crime No.72/2019 registered at Police Station Tikrapara, District Raipur (C.G.) for the offence punishable under Sections 457, 380, 411 of IPC.
3. Case of the prosecution, in brief is that Santosh Agrawal runs jewelery shop in the name and style of 'Chhattisgarh Jewelers' at Siddharth Chowk Tikrapara, Raipur. In the intervening night of 01.02.2019 and 02.02.2019 some unknown persons stole jewelries from his shop worth of Rs.76 Lacs. On the memorandum of applicant some golden ornaments worth of Rs.13,95,200/- were seized from him. Later on complainant identified some golden ornaments.
4. Counsel for the applicant submitted that he has no criminal background, he is innocent and has been falsely implicated in the present case. He further submitted that applicant is only sole earning member of family and his two sisters were mentally retarded. As per prosecution story applicant was running a shop for purchase and sale

of silver gold ornaments, thus there was no necessity for him to conceal the golden ornaments in his house. He further submitted that one co-accused namely Sagar Nayak has been released on bail by this Court and applicant is in jail since 10/02/2019 thus applicant may be released on bail.

5. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicant is reported in the police case diary.
6. This is well settled legal position that while dealing the bail application Court neither can scrutinize nor appreciate the evidence. This is also well settled legal position that while dealing the bail application Court cannot look into merits and demerits of the case.
7. The case of co-accused Sagar Nayak is totally different from the case of applicant. Only one iron rod was seized from the co-accused Sagar Nayak. The case of applicant is more severe than the case of co-accused Sagar Nayak.
8. Looking to the above mentioned facts and circumstances of the case, looking to the material available on record against the applicant, looking to the worth of allegedly seized golden ornaments from him, looking to the seriousness of the offence, looking to the impact of granting bail on society, this Court is not inclined to give the benefit under Section 439 of CrPC to the applicant in second round of litigation. Consequently, second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge