

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MISC. CRI. CASE No. 7957/2019**

Avinash Mishra, son of shri Narendra Mishra, aged about 28 years, resident of Bouripara Police Station Ambikapur, Distt. Surguja (CG)

versus

State of Chhattisgarh through the Station House Officer, PS Ambikapur, Distt. Surguja (CG)

For applicant	Mr. V.K. Pandey, Adv.
For Respondent/State	Mr. D.C. Verma, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****19-12-2019**

1. This is 2nd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court. His 1st bail application MCRC No. 1573/2019 was rejected by this Court vide order dated 15-3-2019 considering prima facie case against the applicant.
2. The applicant has been arrested in connection with Crime No. 658/2018 registered in police station Ambikapur, Distt. Sarguja (CG) for offence punishable under Section 21(b) of the NDPS Act.
3. Prosecution story in brief is that on 8-12-2018, 13.35 hours, near turning point Dhaba Shankarghat, Ambikapur, Sub Inspector Chitranjan Sahu posted at PS Ambikapur seized 9.16 grams brown sugar from possession of the applicant.
4. Counsel for the applicant submits that the applicant is in jail since 8-12-2018. There is a delay in trial. On co-accused Sant Kumar Agariya has been released on bail. He has been already acquitted in cases under IPC. Panch witnesses have been examined in trial but they did not support prosecution story. Thus, he may be released on bail.
5. On the other hand, the Panel Lawyer appearing for the State opposes the bail application. He further submits that 9 other criminal cases have been registered against the applicant out of which 7 cases under IPC, 1 under Gambling Act and another under NDPS Act.
6. Earlier this Court has released co-accused Sant Kumar Agariya on bail. Against him only 3 cases were registered. In the case in hand, 9 other criminal cases have been registered against the applicant out of which 7 are under IPC, 1 under Gambling and 1 under NDPS Act. If

the applicant is acquitted in those case registered under IPC it does not mean that those cases were not registered against him.

7. Even if Panch witnesses do not support the prosecution case, then also it does not entitle the applicant to be released on bail. Moreover, in the case in hand the Investigating Officer is yet to be examined.
8. It is true that period of detention of the accused and delay in trial are the material factors for disposal of bail application of accused but it is also equally true that seriousness of the offence and impact of grant of bail to the accused on society are more important and material factors for disposal of the bail application filed by the accused.
9. Looking to the above facts and circumstances of the case, this Court finds that it is not a fit case where the applicant may be released on bail in second round of litigation.
10. Consequently, this 2nd bail application is rejected.
11. However the trial Court is directed to expedite the trial and dispose of the same as early as possible.

Sd/-
(Sharad Kumar Gupta)
Judge