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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6168 of 2019

Virendra Singh Tomar, S/o. Late Om Prakash Tomar, Aged About 36 Years,
R/o. Sai Vila Colony, Bhatagaon, Raipur Chhattisgarh 8871610709.

---- Applicant

Versus

State Of Chhattisgarh, Through : P.S.- City Kotwali, Raipur Chhattisgarh.

---- Respondent

For Applicant	: Mr. B.P. Sharma, Advocate with Mr. N. Naha Roy & Mr. M.L. Sakat, Advocates
For Respondent/State	: Mr. Sudeep Verma, Dy.G.A.
For Objector	: Mr. Raj Kumar Gupta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

03/01/2010

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.215/2019, registered at Police Station – City Kotwali, Raipur, District – Raipur (C.G.) for the offence punishable under Section 384, 327, 506-B, 34 of the Indian Penal Code. The first bail application was dismissed on merits vide order dated 19.07.2019 in M.Cr.C. No.3313/2019.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is in

jail since about one year. The respondent has chargesheeted the applicant for commission of offence under Section 327, 384, 506, 34 of the Indian Penal Code and the learned trial Court has framed the charges under Section 384 of Indian Penal Code along with other charges. It is further submitted that on plain reading of the charge-sheet filed, it is clearly reflected that the applicant had acted to coerce the complainant for making repayment of loan advanced to him, which is an offence under Section 4 of the Chhattisgarh Protection of Debtors Act, 1937 and therefore, it is not an offence as defined under Section 384 of I.P.C. Relying on the judgment of Supreme Court in case of ***Isaac Isanga Musumba & Ors. Vs. State of Maharashtra & Ors.***, reported in **(2014) 15 SCC 357**, it is submitted that there should be ingredients to show for the offence under Section 383 of I.P.C.. The evidence in the charge-sheet does not at all reveal that the act of the applicant is covered under Section 383 of I.P.C. Therefore, it is prayed that the applicant be granted bail.

3. State counsel opposes the application and the submission made in this respect. It is submitted that the trial Court has framed the charges against the applicant and that has not been challenged so far. It is submitted that this Court has considered on the evidence against this applicant in the previous order and rejected his application on merits and also for the reason that this applicant has criminal history, therefore, he is not entitled for grant of bail.
4. Learned counsel for the objector opposes the submission made on behalf of the applicant and adopts the arguments advanced on behalf of the State counsel. It is further submitted that the applicant has

tainted history of running Rangdari, therefore, he is not entitled for grant of bail.

5. In reply, it is submitted by the counsel for the applicant that the applicant has further entitlement for grant of bail under the provision of Section 436 (A) of Cr.P.C., because he has undergone detention which is more than the punishment, which could be imposed upon him for offence under Section 4 of the C.G. Protection of Debtors Act, 1937. Therefore, it is prayed that the applicant may be released on bail.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. The merits of this case against the applicant have already been considered in the previous order dated 19.07.2019 in M.Cr.C. No.3313/2019. The arguments raised that the offence under Section 384 of I.P.C. is not made out against this applicant can not be entertained and considered by this Court while considering the application for grant of bail. After filing of the charge-sheet and also after framing of charge against the applicant, this Court is not in a position to make any comment on the arguments advanced by the applicant's counsel. The better course available to the applicant is to challenge the order of the trial Court framing charge against him, which has not been done so far. Therefore, being bound by this discipline, this Court does not find any change in circumstances for entertaining the application to grant bail to the applicant. As regards the applicability of Section 436 (A) of Cr.P.C. that has to be examined by the trial Court itself for which the applicant has liberty to move application, if the facts and circumstances allow for filing such

application. Hence, for this reason, 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 330 of 2020

- Virendra Singh Tomar S/o Late Om Prakash Tomar Aged About 36 Years
R/o Sai Vila Colony, Bhatagaon, Raipur, Chhattisgarh 8871610709,
District : Raipur, Chhattisgarh

---- Petitioner/Applicant

Versus

- State of Chhattisgarh Through PS City Kotwali, Raipur, Chhattisgarh,
District : Raipur, Chhattisgarh

---- Respondent/Non-applicant

Shri C.B. Kesharwani, Panel Lawyer for the State.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

05-02-2020

This is office reference in which a request has been made for correction of date mentioned in the impugned order.

MCRC No.6168 of 2019 has been decided on 03/01/2020, however, the date mentioned on the first page and before the first paragraph of the order is 03/01/2010, which is clearly a mistake because of typographical error. Therefore, the prayer made in the reference is allowed. It is ordered that the date mentioned in the first page of the order in MCRC No.6168 of 2019 as 03/01/2010 shall now be read 03/01/2020 hereinafter.

Copy of this order be made a part of the record of MCRC No.6168 of 2019.

Sd/-

(Rajendra Chandra Singh Samant)

Judge