

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1748 of 2020**

- Rakesh Dewangan S/o Bihari Lal Dewangan Aged About 26 Years R/o Dongipara, Ward No. 04, Kondagaon, District- Kondagaon, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Of Azad Chowk, Raipur, District- Raipur, Chhattisgarh

---- Non Applicant

For the Applicant	:	Mr. Pallav Mishra, Advocate
For Non Applicant	:	Mr. D. C. Verma, G.A.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****22.06.2020**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. No other bail application is pending before any other Court.
2. Earlier, the first bail application of the applicant was rejected by this Court by order dated 14.11.2018 passed in MCRC No.8299 of 2018 considering prima facie case against him.
3. Perused the case diary provided by the learned counsel for the State in connection with Crime No.167/2018 registered at Police Station- Azad Chowk, District Raipur (C.G.) for the offence punishable under Sections 394, 395, 397 of Indian Penal Code.
4. Case of the prosecution, in brief, is that complainant Prashant Sharma was engaged to collect the sale amount from different liquor shop and deposit it in the office of Writer safeguard Company Private Limited situated at Sunder Nagar. Intervening night of 14.07.2018 to 15.07.2018 he was going to the said office to deposit the cash amount which was collected from different wine shops, which was Rs.31,22,950/- and was kept in the black bag of said company. On the way six persons who came from four wheeler robbed the aforesaid cash amount from the complainant and caused injury to him.
5. Counsel for the applicant submitted that as per the evidence of P.W.2

Prashant Sharma complainant, memorandum and seizure witnesses respectively P.W.4 Ganesh Jaiswal, P.W.5 Arjun Sengre no case is made out against the applicant. If the prosecution case is taken in toto then applicant may not be convicted. He further submitted that as per the prosecution story registration number of offending vehicle is CG05S8530 but number of seized vehicle is CG04/HL5117. Hence, applicant may be released on bail.

6. If the memorandum and seizure witnesses P.W.4 Ganesh Jaiswal, P.W.5 Arjun Sengre did not support the alleged memorandum and seizure then also applicant may not be entitled for the bail, moreover in the case in hand Investigating Officer is to be examined.
7. This is well settled legal position that while dealing the bail application this Court neither can scrutinize the evidence nor appreciate the same. It is only the trial Court who can do so. In the case in hand allegedly one fake number plate, one black bag of the said company were seized from the applicant.
8. Looking to the above mentioned facts and circumstances of the case, this Court finds that there is no material change in circumstances which may entitle the applicant to get the benefit of Section 439 CrPC. Consequently, the second bail application is rejected.

Sd/-

(Sharad Kumar Gupta)
Judge

parul