

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1867 of 2020**

1. Raju Khan @ Raja Khan @ Kasmuddin And Ors. S/o Shri Sahabuddin @ Bahadur Khan Aged About 22 Years

2. Chhote Miyan @ Chhote Khan S/o Shri Bahadur Khan Aged About 28 Years,

Both are R/o Village Dutkaiyya Khapari, Police Station Rajim , District Gariyaband Chhattisgarh., District : Gariyabandh, Chhattisgarh

3. Mohd. Sameer Khan @ Amit Soni S/o Shri Salim Khan Aged About 30 Years R/o Village Khapari, Police Station Rajim, District Gariyaband Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Dhamdha, District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Sunil Sahu, Advocate
For the State	:	Shri D.K. Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board

29/06/2020

1. Heard.
2. Case diary is available.
3. This is the second bail application of applicant No. 1 Raju Khan @ Raja Khan @ Kasmuddin and applicant No. 2 Chhote Miyan @ Chhote Khan under Section 439 of the CrPC.
4. This is third bail application of applicant No. 3 Mohd. Sameer Khan @ Amit Soni under Section 439 of CrPC.
5. Earlier first bail application of the applicant No. 1 Raju Khan @ Raja Khan @ Kasmuddin and applicant No. 2 Chhote Miyan @ Chhote Khan was rejected by this Court on 18/02/2019 passed in MCRC No. 9451/2018 considering *prima facie* case against them and first bail application of applicant No. 3 Mohd. Sameer Khan @ Amit Soni was rejected by this Court on 24/10/2018 in MCRC No. 6883/2018, his Second bail application was rejected by this Court on 18/02/2019 in MCRC No. 834/2019, considering *prima facie* case against him.
6. Perused the case diary in connection with the Crime No.117/2018 registered at Police Station Dhamdha, District Durg (C.G.) for the offence punishable under Sections 420, 384, 120-B/34 of IPC.

7. Case of the prosecution, in brief is that complainant Bhushan Sahu is resident of village Rajpur. Applicants and co-accused Badshah Khan and Madar Khan obtained Rs.20 Lacs from him promising that they will provide job to his daughter, his sister and his son-in-law in Railway department. Thereafter they convinced the said complainant that in his house, wealth is buried. To save from sacrifice to his daughter again obtained Rs. 85 Lacs from him.
8. Counsel for the applicants submitted that applicants are in jail since 18/06/2018. Out of 43 prosecution witnesses only three witnesses examined, trial is delayed. Main accused Madar Khan has been released on bail by co-ordinate Bench of this Court. Another accused Badshah Khan is also enlarged on bail by co-ordinate Bench of this Court. Hence, principle of parity is applicable in favour of applicants. Consequently, applicants may be released on bail.
9. On the other hand, counsel for the State opposes the bail application.
10. Case of co-accused Badshah Khan and Madar Khan is not lesser than the case of applicants. Earlier this Court has rejected first bail application of applicant No. 3 Mohd. Sameer Khan @ Amit Soni on 24/10/2018, his second bail application was also rejected by this Court on 18/02/2019 considering *prima facie* case against him. This Court has also rejected first bail application of applicant No. 1 Raju Khan @ Raja Khan @ Kasmuddin and applicant No. 2 Chhote Miyan @ Chhote Khan on 18/02/2019 considering *prima facie* case against them. Later on co-accused Badshah Khan and Madar Khan were released on bail by co-ordinate Bench of this Court.
11. It does not transpire from the orders of the co-ordinate Bench dated 09/01/2020 and 12/05/2020 that this fact was considered that earlier on 18/02/2019 this Court has rejected first bail application of applicants No. 1 & 2, first bail application of applicant No.3 has rejected on 24/10/2018, his second bail application was also rejected on 18/02/2019.
12. It is true that detention period of the accused and delay in trial are material factors for disposal of the bail application of the accused but equally it is also true that seriousness of the offence and impact of granting bail to the accused on society are more material and important factors for disposal of the bail application filed by the accused.
13. Looking to the above mentioned facts and circumstances of the case this Court finds that principle of parity does not applicable in favour of applicants. Consequently second bail application of applicant No. 1 Raju Khan @ Raja Khan @ Kasmuddin and applicant No. 2 Chhote Miyan @ Chhote Khan and third bail application of applicant No. 3 Mohd. Sameer Khan @ Amit Soni are rejected.

Sd/-
(Sharad Kumar Gupta)
Judge