

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 2051 of 2020

- Toran Dewangan S/o- Mohan Lal Dewangan, Aged about 32 years, R/o- Village Hasda, Chowki-Kandraka, Tahsil Berla, District Bemetara (C.G.) ---- **Applicant**

Versus

- State of Chhattisgarh, Through – SHO, Police Station- Berla, District Bemetara (C.G.)

Respondent

For Applicant : Mr. Sanjeev Kumar Sahu, Advocate.
For Respondent/State: Mr. Dinesh R.K. Tiwari, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****16.06.2020**

- The accused/applicant has moved this **second bail application** under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 265/2019 registered at Police Station – Chowki-Kandraka, PS Berla, District Bemetara (C.G.) for the offence punishable under Sections 457, 435, 427, 380 and 34 of IPC and under 4 of the Prevention of Damage to Public Property Act, 1984
- The first bail application of the applicant was dismissed with liberty to revive the same after evidence of memorandum and seizure witnesses by this Court on 10.02.2020 in MCRC No. 8503/2019.
- The prosecution story, in brief is that, incident on 16.09.2019 in place of Post Office, allegation against the present applicant and other co-accused persons have theft, the complainant lodged written report against the unknown persons stolen by the some document and Rs. 3000/-, thereafter, the Police Chowki- Kandraka, Police

Station- Berla registered the F.I.R. against the present applicant and other co-accused offence under Sections 457, 435, 427, 380 and 34 of IPC, and under 4 of the Prevention of Damage to Public Property Act, 1984 thereafter investigation completed and charge sheet has been filed, the present applicant has been arrested on the basis of their memorandum statements.

- Learned counsel for the applicant submits that the applicant has not committed the alleged offence and he has been falsely implicated police officials in the instant case. He further submits that independent and memorandum seizure witnesses have turned hostile. He next submits that the applicant is in jail since 18.09.2019, there is no likelihood of his case being decided in near future, therefore, the present appellant may be released on bail.
- On the other hand, counsel for the State opposes the bail application.
- I have heard learned counsel for the parties and perused the case diary.
- Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, detention period of applicant and further considering the facts that the independent and memorandum seizure witnesses have not supported the prosecution case and the applicant is in jail since 18.09.2019 and the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.
- Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 50,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said

Court.

- It is made clear that if the applicant has already been released on bail pursuant to the bail bond already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23.03.2020 in the matter of **In Re: Contagion of COVID 19 Virus in Prisons** (Suo Moto Writ Petition (c) No. 1/2020), he need not furnish bail bond afresh and the bail bond already furnished shall be deemed to be the bail bond furnished in compliance of the order of this Court, but if he has not furnished the bail bond earlier, then he will be required to furnish bail bond within four weeks from today.

Sd/-
(Rajani Dubey)
Judge

Vasant