

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 3469 of 2020**

Mahendra Kumar Gupta, S/o Shri Ramratan Gupta, Age 50 Years,
Occupation - Business, R/o 404, Suraj Villa, Police Station- New
Palasiya, District- Indore (M.P.)

---- Applicant**Versus**

State of Chhattisgarh, Through - Station House Officer, Azad Chowk,
Raipur & District- Raipur (C.G.)

---- Respondent

For Applicant	:	Mr. Manoj Paranjpe, Advocate with Mr. Sanjay Agrawal, Advocate.
For Objector	:	Mr. Rahim Ubwani, Advocate.
For Respondent/State	:	Mr. Devendra Pratap Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****29/09/2020**

1. This is the third 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. 334/2018, registered at Police Station – Azad Chowk, District – Raipur (C.G.) for the offence punishable under Section 420 of the I.P.C.
2. The first bail application MCRC No. 1525 of 2019 was dismissed on 15.07.2019 on merits. Subsequent to which, second bail application MCRC No. 6900 of 2019 was decided and rejected again on 26.11.2019.

3. Learned counsel for the applicant submits that the applicant is before this Court only on the ground of delay. The applicant is in jail since about one year and eight months and the trial against him, has no progress after filing of charge-sheet on 03.03.2019. Copy of the order-sheets filed along with petition, shows that no witness has turned up so far, therefore, there is no role of this applicant in delay of the trial. Therefore, for this reason, it is prayed that this applicant be enlarged on bail. Reliance has been placed on the judgment of Supreme Court in the matter of **Abdul Rehman Antulay & others Vs. R.S. Nayak & another**, reported in **(1992) 1 SCC 225** and **Mehmood Mohammed Sayeed Vs. State of Maharashtra**, reported in **(2002) 10 SCC 677**.
4. On the other hand, learned counsel for the State opposes the bail application submitting that this Court has already found that the applicant is not entitled for granted of bail on merits. The trial is getting delayed because of the circumstances that are present and beyond control of the Court as well as the prosecution side. Looking to the gravity of offence, ground of delay alone, is not sufficient to be considered for grant of bail to this applicant. Hence, the application for grant of bail may be rejected.
5. Learned counsel for the complainant/ objector has filed written objection and submits that two previous applications filed by this applicant, have been decided on merits. This case is of cheating and fraud of huge amount of Rs. 15 crores and there are 27

cases in all registered against this applicant. Looking to the nature of this case and other cases against this applicant, delay cannot be regarded as proper ground for grant of bail. On the other hand, the Court may be pleased to issue direction for concluding the trial expeditiously.

6. Learned counsel for the applicant, in reply, submits that out of the pending cases against this applicant, he has been acquitted by the trial courts in four cases. Relying on the judgment of the Supreme Court in the matter of **State of Kerala Vs. Raneef**, reported in **2011 (1) SCC 784** submits that the Supreme Court has held that the delay in trial is an important factor for grant of bail, therefore, the applicant has entitlement for grant of bail.
7. Heard counsel for the parties and perused the records.
8. Considered on the submissions. On merits, the applicant was not found entitled for grant of bail in the previous order looking to the gravity of offence committed by him and also looking to the pendency numerous similar cases against him. Grant of bail is totally in discretion and exercise of power of the Courts in the matter present before it. Therefore, judgments by the Apex Court cited here being decision on the facts and circumstances of the cases, cannot be considered as case law to be followed. For the reasons mentioned hereinabove, I am of this view that the delay alone cannot be ground for grant of bail to the applicant, therefore, the application filed by the applicant is rejected.

9. However, the trial court is directed to make efforts, so that the trial against the applicant be expedited and concluded within a reasonable time frame, by minutely pursuing the proceeding, ensuring that the process is issued as ordered and the appearance of the witnesses concerned, is secured by proper exercise of the powers provided under the Code of Criminal Procedure.
10. In view of the above, the bail application filed under Section 439 of the Cr.P.C. is rejected and disposed of.

Sd/-
(Rajendra Chandra Singh Samant)
Judge