

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 4954 of 2020

- Maajuddin, S/o Yasin Shah, Aged About 25 Years R/o Village - Saitangertoli, Chowki - Lodam, Police Station And District Jashpur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through - S.H.O. Police Station - Lailunga, District Raigarh Chhattisgarh

.....Non-applicant

For the Applicant	:	Shri M.P.S. Bhatia, Adv.
For Non Applicant	:	Shri Dinesh Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta

Oral Order

1-10-2020

1. Counsel for the applicant submits that he does not want to press the I.A. No. 2 application for grant of temporary bail.
2. As prayed, I.A. No. 2/2020 is dismissed as not pressed.
3. Heard on main bail application.
4. This is 2nd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court. His no other bail application is pending before any other Court.
5. Earlier, the first bail application of the applicant was rejected by this Court vide order dated 5-7-2019 passed in MCRC No. 3428/2019 considering prima facie case against him.
6. The applicant has been arrested in connection with Crime No. 288/2018 registered in police station Lailunga, Distt. Raigarh (CG) for offence punishable under Section 302, 397, 120-B, 201, 34 of IPC.
7. Case of the prosecution, in brief, is that deceased Ajay Kumar Ekka was resident of village Rajpur. He was running a taxi bearing registration No. CG 15-B-3074. On 6-12-2018 some unknown person booked his vehicle. He had a mobile bearing SIM No. 744099803. On 7-12-2018 the dead body of deceased was found in injured condition beside the Tikra of Dharam Singh at village Karrahan. Some unknown

persons had looted his taxi and said mobile. On the memorandum of applicant one Intex mobile touch screen IMEI No. 911475553153330 which was in the name of Kapila Ekka was seized from him.

8. Counsel for the applicant submits that out of 24 prosecution witnesses only 4 have been examined. Trial is withheld after the month of December, 2019. The applicant is in jail since 20-12-2018. Co-accused is already bail out and the case of the applicant is identical to him. He further submits that Ku. Kapila Ekka stated in her police statement that the culprit had taken the deceased's mobile No. 7440799803. As per alleged seizure, one mobile bearing IMEI No. 911475553153330 was seized from the applicant which was in the name of Ku. Kapila Ekka. Hence the applicant may be released on bail.
9. On the other hand, counsel for the State opposed the bail application. He further submits that no criminal antecedent is reported against the applicant in the police case diary.
10. This is true that period of detention of the accused and delay in trial are the material factors for disposal of bail application of accused but it is also equally true that seriousness of the offence and impact of grant of bail to the accused on society are more important and material factors for disposal of the bail application filed by the accused.
11. This is also well settled legal position that while deciding bail application this Court can neither scrutinize nor appreciate the evidence. It is only the trial Court which is competent to do it at the time of appreciation of evidence. At this stage, this court cannot touch merit or demerit of the case.
12. As per the police statement of Ku. Kapila Ekka negotiations regarding her marriage with the deceased were going on. Hence at this stage the applicant does not get any help from the aforesaid police statement of Ku. Kapila Ekka.
13. While dealing with first bail application of the applicant, this Court has given finding in para 7 of the order dated 5-7-2019 that case of the applicant is totally different from co-accused Safarulla who was released on bail.
14. In the present scenario it cannot be held that the trial Court is

responsible for delay in trial.

15. Considering the totality of the facts of the case, this Court finds that it is not a fit case for grant of bail in 2nd round of litigation. Consequently, 2nd bail application is rejected.
16. However, the trial Court is directed to expedite the trial and conclude the same as early as possible after resuming regular court work.

Sd/-

(Sharad Kumar Gupta)

Judge