

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4937 of 2020**

Agnikant Burman @ Vickky S/o Bhagwan Das Burman Aged About 33 Years
Caste - Sonar, R/o Village - Dagapara, Baliyapur, Ps - Baliyapur, District-
Dhanbad, Jharkhand.

---- Applicant

Versus

State of Chhattisgarh Through The Police Station Ambikapur, District
Surguja Chhattisgarh

.....Non-applicant

For the Applicant	:	Shri Jitendra Shrivastava, Adv.
For Non Applicant	:	Shri D.C. Verma, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**Oral Order****29-9-2020**

1. This is 3rd 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.
2. Earlier, the first bail application of the applicant was dismissed for want of prosecution by this Court vide order dated 6-10-2018 passed in MCRC No. 6090/2018. His 2nd bail application was rejected by this Court vide order dated 8-1-2019 passed in MCRC No. 9371/2018 considering prima facie case against him.
3. The applicant has been arrested in connection with Crime No. 7/2017 registered in police station Ambikapur, Distt. Surguja (CG) for offence punishable under Sections 395, 397, 412, 120-B, 201 of the IPC and Section 25 and 27 of the Arms Act.
4. Case of the prosecution, in brief, is that on 4-1-2017 in the Manipuram Gold, branch Bramharoad, Ambikapur a dacoity was committed and 20 kg gold worth Rs. 2,50,00,000/- and an amount of Rs. 1,54,000/- were looted by the dacoits. It is alleged against the applicant that he knowingly that the gold is subject matter of the dacoity purchased 200 gm gold from the co-accused Nityanand Pandey. On the memorandum of applicant, some golden ornaments have been seized from him.
5. Counsel for the applicant submits that the applicant is in jail since 13-4-2018. After rejection of 2nd bail application, 1 year and 9 months have

passed. Witnesses of memorandum and seizure have turned hostile and have not supported the prosecution case. There is no possibility of absconding the applicant. As per final report, the applicant is the purchaser of gold. Co-accused Ranjit Soni has been granted bail by this Court and the case of the applicant is identical to that of co-accused Ranjit Soni. Therefore, he may be released on bail.

6. On the other hand, counsel for the State opposed the bail application.
7. 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.
8. If some witnesses have turned hostile, it does not mean that the accused is entitled for grant of bail. Moreover, in the case in hand, the Investigating Officer is yet to be examined.
9. While dealing with the 2nd bail application, this Court clearly prima facie gave finding in para 9 that it does not appear that the applicant is a bonafide purchase. While dealing with 2nd bail application this Court has also given the finding in para 9 that the co-accused Ranjit Soni was granted bail on the ground that he had disappeared the evidence regarding robbed property and no seizure was made from him. The case of the applicant is totally different from that of co-accused Ranjit Soni.
10. Mere the fact that there is no possibility of absconding is not itself sufficient ground to enlarge the applicant on bail.
11. In the present scenario it cannot be held that the trial Court is responsible for delay in trial.
12. Looking to the above mentioned facts and circumstances of the case and considering the totality of the case, this Court finds that it is not a fit case where the applicant may be released on bail. Consequently, the 3rd bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge