

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5800 of 2020**

Laxman Nayak @ Kalia, son of Shri Jatia Nayak, aged about 34 years, R/o Bangomunda, P.S. Bangomunda, District Balangeer Odisha Civil and Revenue District Balangeer Odisha.

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Tikrapara, Raipur, District Raipur (CG).

---- Non-applicant

For Applicant	: Mr. C.R. Sahu, Advocate
For Non-applicant	: Mr. D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****26.11.2020**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.72/2019 registered at Police Station Tikrapara, Raipur, Civil and Revenue District Raipur for the offence punishable under Sections 457, 380, 411 of the Indian Penal Code.
3. The first bail application of the applicant was rejected on merits by this Court vide order dated 13.08.2019 passed in M.Cr.C. No.4052/2019 considering prima facie case against him.
4. Case of the prosecution, in brief, is that complainant Santosh Agrawal runs Jewellery shop in the name and style of Chhattisgarh Jewelers at Sidharth Chowk, Tikrapara, Raipur. In the intervening night of 1/2-2-2019, some unknown persons stole jeweleries from his shop, the total amount of Rs.76 lacs. On the memorandum of applicant, some golden and silver ornaments and cash of Rs.3,50,000/- were seized from him. As per property identification memo, the said complainant has identified some golden and silver ornaments by touching and experience.
5. Counsel for the applicant submitted that the applicant is in jail since 10.02.2019. Memorandum and seizure witness P.W.-2 namely Sudhir Kumar turned hostile and did not support the prosecution case, hence the applicant may be released on bail.

6. On the other hand, counsel for the State opposed the bail application. However, he submitted that no criminal antecedent is reported against the applicant as per police case diary.
7. This is true that the detention period of the accused and delay in trial are material factors for disposal of the bail application. But equally, it is also true that seriousness of the offence and impact of granting bail to the applicant on society are more material and important factors for disposal of the bail application.
8. This is well settled legal principle that while dealing with the bail application, the Court can neither scrutinize the evidence nor appreciate the evidence. It is only the trial Court, who can do so at the time of appreciation of the evidence.
9. Moreover in the case in hand, Investigating Officer is to be examined.
10. Looking to the above mentioned facts and circumstances of the case and considering the totality of the facts, this Court finds that this is not a fit case where the applicant be released on bail in the second round of litigation. Consequently, his second bail application is rejected. However, the trial Court is directed to expedite the trial and dispose of case expeditiously preferably within a period of three months from the date of receipt of certified copy of this order.
11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE

L/-