

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6616 of 2020**

- Himanshu Banjarre S/o Dharamdas Banjare Aged About 25 Years Village - Ward No. 15, Near Jaistambh, Sikolabasti, Thana- Mohan Nagar, Tahsil And District - Durg (Chhattisgarh), District : Durg, Chhattisgarh

---- **Petitioner****Versus**

- State Of Chhattisgarh Through Police Station - Mohan Nagar, District - Durg (Chhattisgarh), District : Durg, Chhattisgarh

---- **Respondent**

For Applicant	:	Ms. Swati Verma, Advocate
For Respondent/State	:	Shri H. S. Ahluwalia, Dy.AG

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/10/2020**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.349/2014 registered at Police Station Mohan Nagar, District Durg for the offence punishable under Section 376 & 506 of the IPC, Section 4, 5 and 6 of POCSO Act and Section 67 of the I.T. Act. The applicant was arrested on 13-03-2020.
2. The applicant has been arrested and sent to jail as he jumped bail by not appearing on the date fixed for appearance before the trial Court. The applicant was earlier arrested in connection with Crime No.349/2014 for alleged commission of offences under Section 376 & 506 of the IPC, Section 4, 5 and 6 of POCSO Act and Section 67 of the I.T. Act. The applicant was granted bail by this Court vide order dated 08-10-2014 in M.Cr.C.No.4644 of 2014. However, thereafter, the applicant violated the conditions with the result that he has again been arrested when bail cancelled. This give rise for filing fresh application for grant of bail.
3. Learned counsel for the applicant would argue that the applicant has appeared before the trial Court on number of occasions and the evidence of prosecution is over. He would submit that due to unavoidable reasons, the applicant being only earning member in the family and because of strained

circumstances, he failed to appear before the trial Court on the date fixed for hearing, which was not with intention to jump bail or avoid trial. It is submitted that as prosecution evidence is over, the applicant may be granted one last indulgence by imposing appropriate conditions. It is argued that at present, trial is not going on due to pandemic situation and therefore, for this reason also, the applicant may be granted bail with appropriate conditions.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that the applicant is habitually not appearing before the trial Court and on more than one occasion, the applicant did not appear, his bail was cancelled and then, again bail granted and thereafter, he again did not appear and in this situation, if bail is granted to the applicant, he is again likely to jump bail, which would hamper early conclusion of trial, because his presence would be necessary, even if all the prosecution witnesses have already been examined. It is also submitted that since there has been amendment under Section 439 of Cr.P.C., a notice is required to be issued to the informant under Section 439(1)(a) of Cr.P.C.

5. In the present case, the applicant was also granted bail on 08-10-2014 on merit considerations. This application has come up for consideration on the ground that the applicant has jumped bail, therefore, it is not necessary to direct appearance of the informant.

6. Though, this Court finds that the applicant jumped bail on earlier occasions, it cannot lost sight of the fact that the prosecution evidence is over and only a part of the trial including examination of the accused and defence witnesses is to be completed. Due to pandemic situation, fresh trial is not started, therefore, striking balance, it would be proper to grant one more indulgence to the present applicant imposing appropriate conditions to ensure his presence during trial as and when it commences.

7. Accordingly, the application is allowed. It is ordered that the applicant shall be released on bail on furnishing a personal bond of Rs.50,000/- along with one local surety of the like amount to the satisfaction of the concerned trial Court on the condition that he shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge