

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1168 of 2021**

Hemgiri Goswami S/o Shiv Giri Goshwami, Aged About 52 Years, R/o House No. R/24, MP Housing Board Bhilai, P. S. Jamul, District Durg, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Balrampur, District Balrampur/ Ramanujganj Chhattisgarh.

---- Non-applicant

For Applicant : Shri Avinash Chand Sahu, Advocate

For Non-applicant/State : Shri B.P. Banjare, Dy. Govt. Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**12.07.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 11.01.2021 in connection with Crime No.6 of 2021, registered at Police Station Balrampur, District Balrampur Ramaunjganj, Chhattisgarh for commission of offence punishable under Sections 420 of the Indian Penal Code, 3(1)(c) of the Prevention of Damage to Public Property Act and Sections 113/194, 66/192 of Motor Vehicles Act.
2. Case of the prosecution, in brief, is that on 10.01.2021 the Truck bearing No.CG-10/AF/0853 was intercepted by Balrampur Police and asked the papers with regard to goods being transported in the said vehicle, upon which, driver of vehicle has produced two E-Way Bills of two different vehicles bearing No.CG-04/JB/9823

and CG-04/JB/9220, which was issued from Bhilai Steel Plant for transporting iron rails to STPL Buxar. Driver of the vehicle could not able to produce any document for transporting the iron rails loaded over it. Police Upon finding that some illegal act has been committed to cheat the Government, registered the instant case against the present applicant and owner of vehicle bearing No.No.CG-10/AF/0853 as well as transport contractor.

3. Shri Avinash Chand Sahu, learned counsel for the applicant submits that applicant is working as an employee/driver of Truck. He acted in accordance with direction issued by the owner/contractor to transport the loaded goods on the vehicle driven by him. He further submits that during the course of investigation, police could not able to collect any complaint either from Bhilai Steel Plant or from STPL Buxar agasnt commission of crime by applicant, hence, no crime is committed by the present applicant. Applicant is in jail since 11.01.2021. Charge-sheet has already been filed. Offences are triable by the Magistrate and trial may be take some time, therefore, he may be enlarged on bail.
4. On the other hand, Shri B.P. Banjare, Dy. Govt. Advocate for the State opposes the prayer for grant of bail and submits that with an intent to cheat the Government Authorities, goods loaded in two vehicles, for which, E-Way Bill also issued has been loaded in one vehicle as per the case of the applicant himself and it being transported. No E-Way Bill to transport iron rail loaded in the seized vehicle has been generated or produced by the applicant. There is ample evidence of commission of offence against the

applicant as he being driver of vehicle, on which iron, rails were loaded.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, allegations levelled against the applicant, no E-Way Bill is produced by the applicant of his vehicle for transporting iron rails, applicant is only driver of vehicle, on which, iron rails has been found to be transported, investigation has already been completed, charge-sheet is filed, no custodial interrogation is required of applicant, he is in jail since 11.01.2021 and offence alleged against him is triable by Magistrate, without commenting anything on merits of the case, I am inclined to enlarge the applicant on regular bail.
7. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;
 - a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) He shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge