

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 5022 of 2021

- Sheikh Aslam, S/o Salamat Aged About 27 Years, R/o Village- Parpodi Behind Anganbadi, Police Station- Parpodi, Police Station- Parpodi, District- Kabirdham (Kawardha), Chhattisgarh.

At Present Address- R/o Chourasiya Colony Gali, No. 3, House of Akaram, Behind Simaram City, Police Station- Tikrapara, District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station- Tikrapara, District- Raipur, Chhattisgarh.

---- Non-Applicant

For Applicant : Mr. Krishna Kumar Dixit, Advocate

For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. A.G.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

17.08.2021

Heard.

- 1) Earlier, the First & Second bail applications of the applicant were rejected on merits by the Co-ordinate Bench of this Court vide order dated 07.03.2019 & 01.09.2020 in MCRC No.1230 of 2019 & MCRC No. 5096 of 2020.
- 2) The applicant has preferred this Third Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 26.11.2018 in connection with Crime No. 545/2018 registered at Police Station- Tikrapara, District- Raipur (C.G.) for the offence punishable under Section 420, 34 of IPC.
- 3) Allegation against the applicant is that he alongwith co-accused persons cheated the complainant party in the name of providing

government job and fraudulently obtained Rs. 30,31,500/- On report being lodged to above effect the aforesaid offence has been registered against the accused persons.

- 4) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further submits that the applicant is in jail since 26.11.2018 and till now trial has not been concluded, only 7 witnesses have been examined out of 15 witnesses, there is no likelihood of the applicant tampering with the prosecution evidence or absconding and due to COVID-19 trial is likely to take some time for disposal. Therefore, the applicant be released on bail by this Court.
- 5) On the other hand, learned counsel for the Non-Applciant/State opposes the bail application.
- 6) In the matter of ***Arnab Manoranjan Goswami Vs. The State of Maharashtra & Ors. in Criminal Appeal No. 742 of 2020 arising out of SLP (Crl) No. 5598 of 2020***, the Hon'ble Supreme Court has reiterated on certain factors which are to be kept in mind while considering the matters for grant of bail to the accused. In Para-57 of the said judgment, it has been observed as under:

“57. While considering an application for the grant of bail under Article 226 in a suitable case, the Hight Court must consider the settled factors which emerge from the precedents of this Court. These factors can be summarized as follows:

 - i. The nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction;
 - ii. Whether there exists a reasonable apprehension of the accused tampering with the witness or being a threat to the complainant or the witnesses;
 - iii. The possibility of securing the presence of the accused at the

- trial or the likelihood of the accused fleeing from justice;
- iv. The antecedents of and circumstances which are peculiar to the accused;
 - v. Whether *prima facie* the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR; and
 - vi. The significant interest of the public or the State and other similar considerations.”
- 7) Having heard learned counsel for the parties, having regard to the nature of allegation made against the present applicant, the detention period of the applicant, who is 27 years old, more than 2.5 years have been passed but still trial has not been concluded, only 7 witnesses have been examined out of 15 witnesses, the case is triable by Judicial Magistrate First Class, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and due to COVID-19 conclusion of trial may take some time, keeping in view of the observations made by the Hon'ble Supreme Court in Arnab Manoranjan Goswami (supra), in the changed facts & circumstances of the case, without commenting anything on merits of the case, the application is allowed.
- 8) It is directed that in the event of the applicant executing a personal bond for a sum of Rs. 2,00,000/- with two surety of Rs. 2,00,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail, on following conditions :-
- (i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
 - (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,

(iv) he shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

(v) he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-
(Gautam Chourdiya)
Judge

Nadim