

HIGH COURT OF CHHATTISGARH, BILASPUR

M. Cr. C. No. 4476 of 2021

Shashi Kumar Upadhyay, S/o. Shri Kailash Nath Upadhyay, aged about 35 years, occupation- Driver, R/o. Village Thengrahi, Post Raipur, P.S. Palri, District Mirzapur (UP)

-----**Applicant**

Versus

State of Chhattisgarh Through Station House Officer, Police Station Vishrampur, District Surajpur (CG)

---**Respondent**

For Applicant : Mr. Sumit Shrivastava, Advocate

For Respondent/State : Mr. Ashutosh Mishra, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor
Order On Board

30/09/2021

1. This is the second bail application. The present applicant has preferred this repeat bail application under Section 439 Cr.P.C for grant of bail as he is arrested in connection with Crime No. 09/2021 registered at Police Station – Vishrampur, District Surajpur (CG) for the offence punishable under Sections 407 and 411 IPC. The first bail application was rejected on merit on 02.06.2021 in M.Cr.C. No. 1782 of 2021.
2. According to the case of prosecution, 640 bags of Effco DAP fertilizer was loaded in the truck driven by the accused/applicant for being taken to Pendra from Surajpur but the consignment did not reach the destination and was sold out by the accused/applicant in transit. Further, on the

memorandum of the accused/applicant, 43 bags of fertilizer misappropriated of by him has been seized and 9 bags were sold out to the other customers. This apart, the investigation relating to unaccounted 588 bags of fertilizer is still on.

3. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case and he is in jail since 09.02.2021. He further submits that the applicant follow the instructions of the owner of the truck and loaded the fertilizer and unloaded the same in the place informed by the owner, therefore the applicant may be released on bail.
4. Learned State counsel, however, opposes the prayer for grant of bail.
5. Having heard counsel for the parties, considered the facts and circumstance of the case and the material collected by the prosecution showing the *prima facie*, involvement of the applicant in the crime in question and further considering the fact that the applicant misappropriated 640 bags of Effco DAP fertilizer and left the truck in abandoned condition, this Court is of the opinion that it is not a fit case to release the applicant on bail.
6. Accordingly, the application is rejected.

Sd/-

(Vimla Singh Kapoor)
Judge