

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

M.Cr.C. No. 5348 of 2021

- Anand Kasture, S/o Late Sudhakar Kasture, aged about 46 years,
Present Address: Q.No. 15/J, Street- Avenue D, Sector- 6, Old Russian Block, Bhilai, Chhattisgarh,
Permanent Address: LIG 23, Hudco Bhilai Nagar, P.S. Kotwali, Bhilai, District Durg, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through: The District Magistrate, Durg, District Durg, Chhattisgarh

---- State/Non-Applicant

For Applicant	:	Shri Ramakant Gaur, Advocate with Ms. Sneha Arya & Ms. Prerana Agrawal, Advocates
For Non-Applicant/State	:	Shri Anand Verma, Deputy Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

11.08.2021

1. The applicant has preferred this second bail application under Section 439 of Cr.P.C. as he is in jail since 30.07.2014 in connection with Crime No. 282/2014 registered in Police Station- Bhilai Nagar, Durg City, District Durg (CG) for the offence punishable under Sections 420, 467, 468, 471, 409, 34 of IPC.
2. The first bail application of the applicant was rejected on merits vide order dated 19.01.2021 passed in M.Cr.C. No. 8855/2020. However, this Court granted liberty in favour of the applicant to file bail application afresh if the trial is not concluded within a period of 4-5 months from the date of passing of the said rejection order.
3. Case of the prosecution, in brief, is that during the period from 2006 to 2013, present applicant alongwith co-ccused projecting himself as Director and authorized signatory of the Venchura Securities promoted complainant Smt. Saroj Choubey and 26 other persons for making investment in the stock

market and commodity and thereby fraudulently obtained Rs.2,80,00,000/-. The applicant is also alleged to have forged and fabricated certain documents for having illegal gains. On report being lodged to the above effect, offence under the aforesaid sections has been registered against the applicant.

4. Learned counsel for the applicant submits that the applicant is an innocent person and has been falsely implicated in this case. He submits that similarly situated co-accused namely Smt. Mansha Kasture has already been granted regular bail by the coordinate bench of this Court vide order dated 23.09.2015 in M.Cr.C. No. 4012/2015. The applicant is in jail since 30.07.2014, charge-sheet has already been filed and conclusion of the trial is likely to take some time due to Covid-19. Therefore, the present applicant be released on bail. He also submits that the trial against the applicant is stalled by an inefficient prosecution. The witnesses have not been turning up in spite of issuance of warrant of the trial Court. There are as many as 26 witnesses and till date only 13 witnesses have been examined.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Heard learned counsel for the parties.
7. Considering the facts and circumstances of the case, the fact that on 19.01.2021 the first bail application of the applicant was rejected on merits by this Court with liberty granted in favour of the applicant if the trial is not concluded within a period of 4-5 months from the date of passing of the said, he could file afresh bail application, the pre-trial detention of the applicant who is 46 years old which comes to about 7 years, charge-sheet has already been filed, but trial could not be concluded by the trial Court, there is no progress in trial as out of 26 witnesses only 13 witnesses have been examined so far and number of witnesses have not turned up in spite of

issuance of warrant of the trial Court and number of witnesses remain for examination, due to Covid-19 no possibility of soon disposal of the trial, further that a compromise petition under Section 320(2) Cr.P.C. has filed by complainant Saroj Choubey before the trial Court, the fact that there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and further another co-accused has already been granted regular bail by the coordinate bench of this Court, without commenting anything on merits of the case, the application is allowed.

8. It is directed that in the event of applicant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- 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/her 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.
- vi. he shall not leave the Chhattisgarh State without prior permission of the concerned trial Court.

9. 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 nature of offence.

Sd/-
(Gautam Chourdiya)
Judge