

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6066 of 2020**

Ajay Yadav, son of Suresh Yadav, aged about 28 years, Residence of Sauni, P.S. Balrampur, District Balrampur-Ramanujganj (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Rajpur, Police Chowki Bario, Police Station Rajpur, District Balrampur-Ramanujganj (CG).

---- Non-applicant

For Applicant	: Mr. Vikas Pandey, Advocate
For Non-applicant	: Mr. D.C. Verma, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****23.02.2021**

1. This is fourth bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court.
2. Perused the case diary provided by the counsel for the State in connection with Crime No.9/2019 registered at Police Station Rajpur, District Balrampur Ramanujganj for the offence punishable under Sections 4(B) of Explosive Substance Act, Section 14 of Child Labour Act and Section 34 of Indian Penal Code.
3. The first, second and third bail applications of the applicant were rejected on merits by this Court vide order dated 08.03.2019, 09.08.2019 & 05.11.2019 passed in M.Cr.C. No.1227/2019, M.Cr.C. No.4698/2019 & M.Cr.C. No.6766/2019 respectively considering prima facie case against him.
4. Case of the prosecution, in brief, is that on the memorandum of applicant, Sub-Inspector Rupesh Narang posted at Police Station Rajpur seized 5 live zeland rods, 2 live detonators, D.F. wires from the possessions of the applicant. He had kept such explosive material for excavation work of stone quarry by blasting. He had also engaged three minor children for the explosive work of said quarry.
5. Counsel for the applicant submitted that the applicant is in jail since 15.01.2019, memorandum and seizure witnesses Murari Shrivastava (P.W.1) and Vishnu Agrawal (P.W.2) turned hostile and did not support the prosecution case. Co-accused Guddu @ Shankar Gupta is enlarged on bail by the co-ordinate Bench of this Court. He drew my

attention on true copies of statements of Murari Shrivastava (P.W.1) and Vishnu Agrawal (P.W.2); and order of co-ordinate Bench of this Court dated 20.05.2019 passed in M.Cr.C. No.3218/2019.

6. On the other hand, counsel for the State opposed the bail application. However, he submitted that no criminal antecedent is reported against the applicant as per police case diary.

7. This is true that the detention period of the accused and delay in trial are material factors for disposal of the bail application filed by the applicant. But equally, it is also true that seriousness of the offence and impact of granting bail to the applicant on society are more material and important factors for disposal of the bail application.

8. This is well settled legal principle that while dealing with the bail application, the Court can neither scrutinize the evidence nor appreciate the evidence. It is only the trial Court, who can do so at the time of appreciation of the evidence. Moreover in the case in hand, though memorandum and seizure witnesses turned hostile but the statement of Investigating Officer Sub-Inspector Rupesh Narang (P.W.7) has already been recorded by the trial Court, who stated against the applicant.

9. Earlier on 08.03.2019 while dealing with the M.Cr.C. No.1227/2019 this Court rejected the first bail application of the applicant considering *prima facie* case against him. Thereafter, on 20.05.2019 the co-ordinate Bench of this Court granted the bail to co-accused Guddu @ Shankar Gupta. The Order of co-ordinate Bench of this Court dated 20.05.2019 does not reveal this aspect that earlier this Court rejected the bail application of the applicant on merits hence the principle of parity is not applicable in favour of the applicant.

10. Looking to the above mentioned facts and circumstances of the case, this Court finds that this is not a fit case where the applicant be released on bail in the fourth round of litigation. Consequently, his fourth bail application is rejected. However, the trial Court is directed to expedite the trial and dispose of case as soon as possible from the date of receipt of certified copy of this order.

11. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE