

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.7412 of 2020**

- Khemraj @ Chhotu S/o - Dhujram Aged About 19 Years R/o Singhanpur, P.S. Kosir, District - Raigarh Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Dabhara District Janjgir-Champa Chhattisgarh.,

---Non-applicant

For Applicant :Mr. Gyan Prakash Shukla, Advocate

For Non-applicant/State :Mr. Jitendra Pali, Dy. Advocate General

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****08.01.2021**

1. This is the fifth bail application under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.302/2015, registered at Police Station Dabhara, District Janjgir-Champa (CG), for offence punishable under Sections 341, 395/34 and 294 of the Indian Penal Code.

2. Learned counsel for the applicant submits that co-accused Sunil Kumar Vishwakarma has already been granted bail by Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No (s). 1851/2020 on 21.8.2020 and case of present applicant is similar to that of Sunil Kumar Vishwakarma. The applicant is in jail since 26.11.2015 as such he has completed the jail sentence for a

period of more than five years, therefore, on the ground of parity, present applicant is entitled for grant of bail. He further submits that even otherwise, except the amount of Rs.1000/-, neither the looted motor cycle nor the mobile phone owned by the complainant were seized from the possession of the present applicant, therefore, he may be granted bail.

3. On the other hand, learned counsel for the State opposes the bail application.

4. I have heard counsel appearing for the parties and perused the record.

5. Hon'ble the Supreme Court in the matter of Sunil Kumar Vishwakarma Vs. The State of Chhattisgarh in Special Leave to Appeal (Crl.) No (s). 1851/2020 passed on 21.8.2020 held as under:

“Heard learned counsel for the parties and carefully perused the record.

Taking into consideration the fact that the petitioner has undergone sentence of more than 4 years and 2 months and particularly the fact that the co-accused have been granted bail, we think it appropriate to grant bail to the petitioner herein.

The petitioner is accordingly directed to be enlarged on bail on such terms and conditions to be imposed by the trial Court.

The special leave petition stands disposed of accordingly.”

6. Since co-accused Sunil Kumar Vishwakarma has been granted bail and the case of the present applicant is identical with the case of Sunil Kumar Vishwakarma and also considering the fact that it is only Rs.1000/- said to

have been recovered from the possession of present applicant and also considering that the applicant is in jail for more than five years i.e. from from 26.11.2015, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of ₹ 15,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

9. It is made clear that if the applicant has already been released on bail pursuant to the bail bonds already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23.3.2020 in the matter of In **Re : Contagion of COVID 19 Virus in Prisons** (Suo Motu Writ Petition (C) No.1/2020), he need not furnish bail bonds afresh and the bail bonds already furnished shall be deemed to be the bail bonds furnished in compliance of the order of this Court, but if he has not furnished bail bonds earlier, then he will be required to furnish bail bonds.

Sd/-
(Sanjay K. Agrawal)
JUDGE