

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 7527 of 2021

Naeem Baksh S/o Hussain Baksh Aged About 28 Years R/o Kelabadi, District- Durg (C.G.), District : Durg, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- The District- Magistrate, Rajnandgaon District- Rajnandgaon (C.G.), District : Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant : Shri Praveen Dhurandhar, Advocate

For Non-applicant : Shri Sudhir Sahu, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

16/12/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.239/2021 registered at Police Station -Khairagarh, District- Rajnandgaon (CG) for the offence punishable under Sections 457, 380, 34 of IPC.
2. Case of prosecution is that on 8.7.2021 in the night, some persons have committed theft in the house of complainant- Nirupa Sahu and stolen gold and silver ornaments. Based on the report lodged by complainant, aforementioned crime was registered against unknown person. During course of

investigation, applicant along with Supreet, Mohit and Sagar were arrested on 13.7.2021.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated in the case only on the basis of suspicion as earlier he has been implicated in similar nature of crimes in which applicant got acquitted. Some ornaments seized from applicants are the ornaments of his own and his family members. After seizure of ornaments though ornaments have been placed for identification but no other similar ornaments have been mixed with the seized ornaments. Hence, there was no proper procedure adopted by the police for identification of theft articles. Complainant has not produced payment receipt of the articles, hence, it cannot be said that articles stated to have been identified by complainant is of her own. Applicant is in jail since 13.7.2021, offence is triable by Magistrate which may take some time, hence, applicant may be enlarged on bail.

4. Learned counsel for the State opposes the submissions of learned counsel for the applicant and would submit that applicant is a habitual offender. Six other criminal cases of similar nature of the year 2019 were also registered against him as mentioned in case diary. He also points out that the theft articles have been seized from possession of applicant and articles seized were also identified by complainant to be her

own. However, upon asking to learned counsel for the State whether any other similar articles were mixed along with the theft articles at the time of identification, after going through the proceedings, learned counsel for the State submits that there is no mention of mixing of any other articles of similar nature along with the alleged identified articles. He submits that apart from this, the applicant is arrested in two other crimes registered against him of the year 2021 in which also applicant has been shown to be arrested on 13.7.2021. Hence, he is not entitled for grant of bail.

5. At this stage, learned counsel for applicant would submit that applicant has been arrested only in one crime and thereafter he has been implicated in other two pending crimes registered at the same police station.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations, the ground raised by learned counsel for applicant with respect to identification of alleged theft articles, further that applicant has placed on record as Annexure D-1, the certified copies of judgments passed by the Judicial Magistrate First Class, Durg in Crime No.1074/2019, Crime No. 1070/2019, Crime No. 383/2019, Crime No. 610/2019, Crime No. 936/2019 and Crime No 747/2019, wherein the applicant has been acquitted. The applicant is in jail since 13.7.2021,

offence to be triable by Magistrate, without commenting anything on merits, I am inclined to allow the bail application.

8. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon his furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that:-

- a) Applicant shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge