



2024:CGHC:42461

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 7507 of 2024**

Ankush Mishra S/o Shri Ramraj Mishra Aged About 37 Years R/o Near Gajanand Temple, Plot No. 26, Balaji Nagar Vistar Bhagawan Nagar, Nagpur, Maharashtra Present Address In The House Of Sudarshan Colony, Ayodhya Nagar, Nagpur, P.S. Hudkeshwar District Nagpur, Maharashtra

... Applicant**versus**

State Of Chhattisgarh Through S.H.O. Gurur, District Balod (C.G.)

... Non-Applicant

For Applicant : Mr. Shikhar Bakhtiyar, Advocate.

For Non-Applicant : Mr. U.K.S. Chandel, Deputy Advocate General.

Hon'ble Mr. Ramesh Sinha, Chief Justice
Order on Board

25/10/2024

1. This is the first bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the applicant who has been arrested in connection with Crime No. 78/2024 registered at Police Station City Gurur, District Balod (C.G.) for the offence punishable under

Sections 420, 467, 468, 471 and 34 of the Indian Penal Code (for short 'IPC').

2. Case of the prosecution, in brief, is that the complainant Akshay Kumar Sahu has lodged a complaint against accused Dulesh Kumar Sahu and the present applicant that they have taken money for providing job of Ticket Collector (T.C.) and by which have fraudulently taken Rs.12 lakhs from the complainant. Thereafter, the offence has been registered against the present applicant.
3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in offence in question. He further submits that the identically situated co-accused, namely, Dulesh Kumar has already been granted bail by this Court vide order dated 06.09.2024 in MCRC No.6258 of 2024. He also submits that there is delay of 3 years in lodging the FIR, further the applicant is having health issue, due to fracture in his legs and iron rod is implanted, which needs to be removed immediately as advised by the doctor, otherwise it will infect the body. The applicant is in jail since 19.05.2024, the applicant has one criminal antecedent, which is under trial, pending in ST No.3139/2024, the charge-sheet has been filed in the present case and the trial is likely to take some time for its conclusion. Therefore, he prays for grant of bail to the applicant.
4. On the other hand, learned State Counsel appearing for the respondent/State opposes the bail application and submits that the present applicant alongwith other co-accused have fraudulently taken Rs.12 lakhs from the complainant for providing job of Ticket

Collector (T.C.), further the applicant is having two criminal antecedents, therefore, the applicant is not entitled for grant of bail.

5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Taking into consideration the facts and circumstances of the case, nature and gravity of offence, period of detention of the applicant since 19.05.2024, the fact that though the allegation against the applicant is that he alongwith other two co-accused persons have fraudulently taken Rs.12 lakhs from the complainant for providing job of Ticket Collector (T.C.), but the co-accused, namely, Dulesh Kumar has already been granted bail by this Court vide order dated 06.09.2024 in MCRC No.6258 of 2024 and the case of the present applicant is similar to that of the co-accused, further the charge-sheet has been filed in the present case, this Court is of the view that the applicant is entitled to be released on bail in this case.
7. Let the Applicant-**Ankush Mishra**, involved in Crime No. 78/2024 registered at Police Station City Gurur, District Balod (C.G.) for the offence punishable under Sections 420, 467, 468, 471 and 34 of IPC, be released on bail on his furnishing a **personal bond** with **two sureties** in the like sum to the satisfaction of the Court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 269 of Bharatiya Nyaya Sanhita.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 84 of BNSS. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 209 of the Bharatiya Nyaya Sanhita.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of BNSS. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

8. Office is directed to send a copy of this order to the trial Court for necessary information and compliance forthwith.

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE

Akhil