

(2019) 04 CHH CK 0087

In the Chhattisgarh High Court

Case No : Miscellaneous Criminal Case (MCRC) No. 1267 Of 2019

Abhish Swami

APPELLANT

Vs

State Economic Offences Investigation Bureau Raipur

RESPONDENT

Date of Decision : 12-04-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 436A, 439
Indian Penal Code, 1860 — Section 109, 120B, 420, 467, 468, 471
Prevention Of Corruption Act, 1988 — Section 13(1)(e), 13(2)

Citation : (2019) 04 CHH CK 0087

Hon'ble Judges : Prashant Kumar Mishra, ACJ

Bench : Single Bench

Advocate : Shashank Thakur, R.S. Baghel

Final Decision : Allowed

Judgement

Prashant Kumar Mishra, ACJ

1. This is fourth bail application by the applicant Abhish Swami under Section 439 Cr. P.C. as he has been arrested on MCRC No. 1267 of 2019 05.04.2015 on the allegation of commission of offence under Sections 109, 420, 467, 468, 471, 120B of Indian Penal Code and Sections 13(1)(e), 13(2) of the Prevention of Corruption Act, 1988 under Crime No.05/2015 registered at ACB/EOW, Raipur (C.G.).

2. The first bail application MCRC No.4875/2015 was rejected on merits. Similarly, the second bail application bearing MCRC No.2934/2016 and the third bail application bearing MCRC No.3584/2017 were dismissed for the reason that there was no change in circumstance.

3. In this fourth application learned counsel for the applicant would contend that the applicant is in jail since 05.04.2015. Initially charge-sheet was filed against the accused persons for offences under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988 and under Sections 109, 120B, 420, 467, 468

and 471 of the I.P.C. however, while framing charges against accused persons on 07.10.2016, the trial Court has framed charges against the present applicant for offences under Section 12 of the Prevention of Corruption Act and under Sections 109 and 120B of the I.P.C. These provisions carry the maximum sentence of imprisonment upto seven years. It is contended that under Section 436-A of the Cr.P.C., the applicant having undergone more than half of the maximum jail sentence, he MCRC No. 1267 of 2019 is entitled for bail. Reliance is placed on the judgment rendered by the Hon'ble Supreme Court in the matter of Pawan Kumar Agrawal vs. State of Chhattisgarh, (2015) 13 SCC 605 (Bhim Singh vs. Union of India), (2016) 3 SCC 700 (Inhuman Condition in 1382 Prisons, in re) and (2017) 5 SCC 702 (Hussain vs. Union of India).

4. Learned counsel for the applicant would submit that exactly similarly placed co accused Pawan Kumar Agrawal has been enlarged on bail by this Court in Criminal Revision No.1352/2018 decided on 31.01.2019 by invoking the provision under Section 436-A of Cr.P.C.

5. Learned State counsel would oppose the bail application on submission that the offences allegedly committed by the applicant being serious in nature, he is not entitled to be enlarged on bail.

6. Having heard learned counsel for the parties and for the reason that the applicant is in jail for more than 4 years and co-accused Pawan Kumar Agrawal facing similar charges has already been released on bail by invoking Section 436-A of Cr.P.C., I am inclined to release him on bail. Accordingly, the application is allowed and the applicant is directed to be released on bail on his executing a personal bond for a sum MCRC No. 1267 of 2019 of Rs.25,000/- with one surety for the like amount to the satisfaction of the trial Court. He is directed to appear before the trial Court on each an every date given by the said Court.