

**HIGH COURT OF CHHATTISGARH, BILASPUR****Order reserved on 22-11-2017****Order delivered on 05-01-2018****MCRC No. 3957 of 2017**

1. Ved Prakash Gupta @ Gudda S/o Rajendra Prasad Gupta Aged About 46 Years R/o Polsai Para, Durg, Tahsil And District Durg, Chhattisgarh

**---- Applicant****Versus**

1. State Of Chhattisgarh Through: The District Magistrate, Durg, District- Durg, Chhattisgarh

**---- Respondent**

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For Applicant	Shri Jitendra Gupta, Advocate
For Respondent/State	Shri Adiraj Surana & Shri Sangarsh Pandey, Dy. Govt. Advocates

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**Hon'ble Shri Justice Prashant Kumar Mishra****C A V Order**

1. Albeit M.Cr.C. Nos.3957, 3959 and 4136 of 2017 were heard analogously on 22.11.2017, however, looking to the different nature of crime, facts, etc. these bail applications are being dealt with separately by passing individual orders.
2. The applicant has preferred this application filed under Section 439 of the Cr.P.C. for grant of regular bail as he is arrested in connection with crime No.51/2016 registered in Police Station Durg, District Durg, for offence punishable under Sections 420, 467, 468, 471 & 120-B of the Indian Penal Code.

3. The prosecution case, in brief, is that the applicant stood surety in the Court of Special Judge, Durg by impersonating Neelkanth, S/o Sukul Das, resident of village Indavani, however, when the concerned Court sent the papers for verification, the concerned Tahsildar submitted a report that no such person in the name of Neelkanth resides at village Indavani. Thereafter, the Court Mohrir Constable Parsh Nath lodged a report against the applicant for offence punishable under Sections 420, 467, 468, 471 & 120-B of the Indian Penal Code. In the inquiry it was found that the applicant is working as an Advocate's Clerk and has engaged himself in the fraudulent activity by standing surety by affixing his photograph in the property papers of other persons, one of which is Neelkanth, S/o Sukul Das.
4. In course of hearing, it was informed by the learned counsel appearing for the State that in almost every Court in the State forged sureties are produced to obtain bail on the basis of forged revenue papers or by impersonating the real surety. It is also argued that if this menace is not controlled and regulated it will attain enormous proportion, therefore, this Court must pass necessary orders directing trial Courts to ensure obtaining papers of identification at the time of approving surety documents for issuing release warrants.
5. At this juncture, it is pertinent to mention here that some other lawyers present in the Court did not dispute this position that the practice of submission of forged revenue documents and sureties is rampant in trial Courts.
6. In **Binoy Viswam v. Union of India and others**<sup>1</sup>, the Supreme Court was dealing with the challenge to the provisions contained in Section 139-AA of the Income Tax Act, 1961 providing for mandatory seeding of Aadhaar numbers in PAN database. The

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Supreme Court took note of the object of the provision directing mandatory seeding to observe that unearthing black money or checking money laundering is to be achieved to whatever extent possible. Various measures can be taken in this behalf. If one of the measures is introduction of Aadhaar into the tax regime, it cannot be denounced only because of the reason that the purpose would not be achieved fully. Such kind of menace, which is deep rooted, needs to be tackled by taking multiple actions and those actions may be initiated at the same time. Rationality of a particular measure cannot be challenged on the ground that it has no nexus with the objective to be achieved. Individual measure cannot be ridiculed.

7. Highlighting the objectives of Aadhaar, it was further observed that by making use of the technology, a method is sought to be devised, in the form of Aadhaar, whereby identity of a person is ascertained in a flawless manner without giving any leeway to any individual to resort to dubious practices of showing multiple identities or fictitious identities. That is why it is given the nomenclature 'unique identity'.
8. Further highlighting the use of Aadhaar in detecting the crime, the Supreme Court observed in para 125.3 of the judgment rendered in **Binoy Viswam** (supra) that Aadhaar or UID, which has come to be known as the most advanced and sophisticated infrastructure, may facilitate law enforcement agencies to take care of problem of terrorism to some extent and may also be helpful in checking the crime and also help investigating agencies in cracking the crimes. No doubt, going by aforesaid, and may be some other similarly valid considerations, it is the intention of the Government to give fillip to Aadhaar movement and encourage the people of this country to enroll themselves under the Aadhaar scheme.

9. In the present case, the applicant is jail since 31.12.2016 i.e. for more than a year and the offences are triable by the Judicial Magistrate First Class, therefore, considering the length of pre trial detention, the applicant is entitled to be released on bail. Accordingly, the application is allowed and the applicant is directed to be released on bail on executing a personal bond for a sum 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 and every date given by the said Court.

10. While directing release of the applicant on bail, considering the nature of crime and the menace of submission of sureties by fictitious persons, the following directions are needed to be issued to all the trial Courts in the State so that the menace can be controlled and regulated :

- While examining the surety papers the trial Court shall necessarily obtain copy of the Aadhaar Card of the accused as well as of the surety.
- The Aadhaar Card of the accused and the surety as well as genuineness of the revenue papers shall be verified by all the trial Courts, as soon as the same are furnished, preferably within a period of one week from the date of its submission.
- The release warrant shall be issued only after proper verification of the identity of the accused and the surety as well as the genuineness of the revenue/surety papers.
- In the event the revenue/surety papers or the Aadhaar Card is found to be forged, the concerned trial Court shall forthwith lodge an FIR (First

Information Report) against the person who submitted the papers/Aadhaar details.

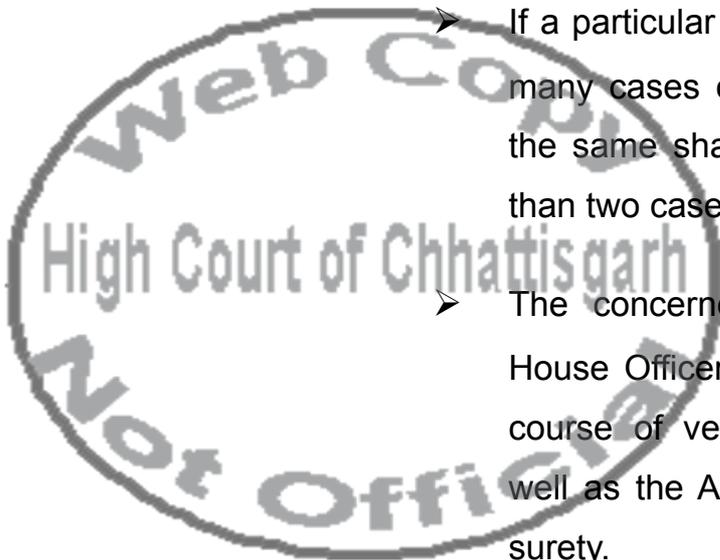
- The concerned District & Sessions Judge shall maintain a register/database in electronic form containing the case No., crime No., particulars of the accused, details of the Police Station, particulars of the person who has stood surety for the accused therein, the details of the property against which the surety is based, etc.

- If a particular surety is found to have stood surety in many cases on the basis of same property papers, the same shall be rejected, if it is involved in more than two cases.

- The concerned Revenue Officer and the Station House Officer shall cooperate with the trial Court in course of verification of revenue/surety papers as well as the Aadhaar details of the accused and the surety.

- All the trial Courts shall meticulously follow these directions and shall certify in the order sheet of the respective case that **“the verification of papers has been done in accordance with the order passed by the High Court of Chhattisgarh in M.Cr.C No. 3957 of 2017 (Ved Prakash Gupta @ Gudda v. State of Chhattisgarh)”**.

- If such certification is not made by the trial Court, disciplinary action may be initiated against the erring Presiding Officer.



11. Registry is directed to forthwith circulate copy of this order to all the District & Session Judges of the State of Chhattisgarh, who shall further circulate the same to all the Judicial Officers within their respective jurisdictions. Copy of this order be also forwarded to all the Collectors-cum-District Magistrates and the Superintendent of Police of the State of Chhattisgarh, who shall further circulate the same to all the Station House Officers within their respective jurisdictions.

Sd/-

Judge

Prashant Kumar Mishra

