

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.5110 of 2015

1. Sunil Pandey, S/o Surendra Pandey, aged about 37 years, R/o Street No.5, Sonia Gandhi Nagar, Sector-11, Zone-1, Khursipar, Distt. Durg (CG)
2. Manoj Kumar, S/o Shri Jagannath Sao, aged about 29 years, R/o Mangal Bazar, P.S. Jamul, Distt. Durg (CG)

---- Applicants

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Bhilai Bhatti, Distt. Durg (CG)

---- Non-applicant

For Applicants:	Mrs. Fouzia Mirza, Advocate.
For Non-applicant:	Mr. Avinash Singh, Panel Lawyer.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board28/09/2015

1. The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.136/2015 (Criminal Case No.6624/2015 pending in the Court of Judicial Magistrate First Class, Durg), registered at Police Station Bhilai Bhatti, Distt. Durg, for the offence punishable under Sections 447 and 379 read with Section 34 of the IPC.
2. Case of the prosecution, in brief, is that on 21-7-2015, the applicants and one another accused person were found in possession of iron scrap of 10.120 MT worth Rs.1,93,990/- transporting unauthorizedly from Bhilai Steel Plant, Bhilai.
3. Learned counsel for the applicants submits that applicant No.2 Manoj Kumar is driver of the truck and the impugned material was loaded at the instance of delivery order issued in the name of M/s. D.S. Sales

Corporation at the instance of other co-accused. Applicant No.1 Sunil Pandey is an employee of M/s. D.S. Sales Corporation being Supervisor. Thus, the applicants are small employees being Supervisor and Driver, they have not committed any offence and have been falsely implicated in the case. She further submits that applicant No.1 is Supervisor of M/s. D.S. Sales Corporation, the material was loaded at the instance of M/s. D.S. Sales Corporation and applicant No.2 is only Driver of the truck and was merely driving the vehicle on behalf of the transporter. She also submits that the applicants are in jail since 22-7-2015 and charge-sheet has already been filed.

4. On the other hand, learned State counsel opposes the bail application and submits that M/s. D.S. Sales Corporation was authorized to carry only the used, rejected and broken RCC pipes, whereas the truck in question had also the complete pieces of RCC which was the stolen property of Bhilai Steel Plant.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, material collected by the prosecution, role of applicant No.1 who is said to be the Supervisor of M/s. D.S. Sales Corporation and at whose instance the unauthorized material were loaded in the truck, and considering the quantity of iron scrap of 10.120 MT worth Rs.1,93,990/-, I do not consider it a fit case for grant of bail to applicant No.1 Sunil Pandey, whereas considering the role of applicant No.2 Manoj Kumar that he is only the Driver of vehicle and required to drive the vehicle as and when directed by the owner of vehicle, pretrial detention of applicant No.2 Manoj Kumar since 22-7-2015 and that charge-sheet has

already been filed, I am of the view that it is a fit case to admit applicant No.2 Manoj Kumar to regular bail. Consequently, the bail application so far as it relates to applicant No.1 Sunil Pandey, is rejected and the bail application so far as it relates to applicant No.2 Manoj Kumar, is allowed.

7. It is, therefore, directed that applicant No.2 Manoj Kumar be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge