

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3635 of 2016

1. Nawab Khan, S/o Shri Kutub Khan, Aged About 30 Years, R/o Near Shiv Mandir, Devendra Nagar, Raipur Chhattisgarh.
2. Mohd. Imran Kamdar, S/o Shri Farookh Kamdar, Aged About 32 Years, R/o Chourasia Colony, Raipur, Distt. Raipur Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Khamtarai, Raipur, Distt. Raipur Chhattisgarh.

---- Respondent

For applicants - Ms. Smita Jha, Advocate.
For Respondent/State – Shri Anant Bajpai, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

15/07/2016

1. The applicants have preferred this application for grant of bail as they are arrested in connection with Crime No.471/15 registered in Police Station Khamtarai, Distt. Raipur (C.G.) for offence punishable under sections 392 of Indian Penal Code.
2. As per the prosecution case the applicants who were the employees of Infinity Service Centre has repossessed two Hiwa and one Road Roller which was financed by the L & T Finance Limited on 4/11/2015 and the report having been made, the applicants were initially inculpated under Section 392 of IPC. Subsequently, the charge was amended to Section 379 of IPC by the trial court, thereby offence is committed.
3. Learned counsel for the applicants would submit that initially the offence was registered under Section 392 of IPC which stood modified to Section 379 of IPC as per order dated 4/06/2016 which is evident from the additional document filed along with the bail application. It is further

submitted that the company Infinity Service Centre was authorized to take back the possession in case the default is made and before the possession of the vehicle were taken the police was duly intimated by the L & T Finance Limited and thereafter the vehicle was taken into possession for default in re-payment of the loan as per higher purchase agreement with the borrower, therefore neither it will amount to robbery or any theft. Therefore, learned counsel submits that under the circumstances, the applicants may be released on bail.

4. Learned State counsel opposes the prayer for grant of bail.

5. Perused the document filed along with the bail application which shows that instead of offence under Section 392 of IPC charges have been framed under Section 379 of IPC as would be evident from the charge on 4/06/2016. The documents also perused. Prima facie it reveals that the applicants are the employees of Infinity Service Centre. The said company entered into agreement with L & T Finance Limited and L & T Finance Limited in turn had given right to Infinity Service Centre to take over possession of the vehicle under the hypothecation in case amount is not re-paid to the L & T Finance Limited by borrower. Consequently, as appears amount having not been paid by the complainant the vehicles were seized in exercise of the right given under the higher purchase agreement which was further delegated to Infinity Service Centre. Taking into nature of allegation and background of the case, this court is inclined to release the applicants on bail. Further it is made clear that the order will govern the bail to the applicants for offence punishable under Section 379 of IPC as charges have been framed on 4/06/2016 under Section 379 of IPC.

6. Accordingly, the bail application is allowed and it is directed that the applicants shall be released on each of them furnishing personal bond for

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a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of concerned trial court for their regular appearance before it as and when directed.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)

JUDGE

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