

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3763 of 2016

1. Luv Kumar Jaswani, S/o. Late Shyam Sundar Jaswani, Aged About 46 Years, By Occupation- Business, Property Dealing, R/o. D-39, Byron Bazar, Raipur, Civil & Revenue District Raipur, Chhattisgarh.
2. Kush Kumar, S/o. Late Shyam Sundar Jaswani, Aged About 44 Years, R/o. K-6, Dawada Colony, Behind Carbize Tower, Tikrapara, Raipur, Tahsil Raipur, Civil & Revenue District Raipur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through : Station House Officer, P.S. Bhilai Nagar, Civil & Revenue District Durg, Chhattisgarh.

---- Respondent

For Applicants : Mr. Manish Datta, Senior Advocate with Mr. Anchal Kharya, Advocate

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

18.07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No.95/2016 registered at Police Station- Bhilai Nagar, District Durg (C.G.) for the offence punishable under Section 454, 397 of Indian Penal Code.
2. Case of the prosecution, in brief, is that a report was made by one Priyanka Armo on 09.02.2016 at 14:20 that two persons entered into the house and thereafter on the point of pistol looted the gold articles, coins, mobile etc. Subsequently, the applicants were arrested and from the possession of the applicants gold and other ornaments were recovered; thereby the offence is committed.

3. Learned counsel for the applicants would submit that initially the applicants were arrested on 15.02.2016 and identification was carried out on 13.04.2016 and during such period the applicants were made to appear before the Court without any cover on face; consequently, there is no evidence on this regard that they were not seen prior to that. It is further submitted that the applicant No.1 is running a business under Amar Oil Company and applicant No.2 is running a business of Building and it is completely improbable that they will indulge any such activity only for Rs.80,000/-. It is further stated that the ornaments which has been stated to be identified they did not match with the properties which are shown in the FIR and seized from the applicants. It is stated that the applicants have filed all the bills to get the properties for custody. It is further submitted that the earlier case as has been stated of Crime No.23/2016 was lodged by Sunil Bajaj, who is the cousin brother of one Payal, the wife of the applicant No.2 and there had been some monetary transaction in between the parties, consequently, they were falsely implicated and further in one more offence bearing Crime No.95/2016 the applicants have been enlarged on bail because the charge sheet has not been filed. Learned counsel further submits that in this case all the investigation is made and no further evidence is required, therefore, the applicants may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that the ornaments were identified by the complainant which were recovered at the behest of the applicants; therefore, there is direct nexus of commission of crime.
5. Perused the FIR, documents, statement and the charge sheet. The statement would show that the applicants entered into the house of

the complainant and thereafter looted the gold ornaments and coins and subsequently the applicants were apprehended and on the memorandum of the applicants, the ornaments were seized, which were subsequently identified by the complainant. Therefore, apart from the fact that the identification paraded in person was made late on 13.04.2016 but when the identification of the goods were made on 11.04.2016, which were recovered on the memorandum of the applicants, they have been identified by complainant. Further taking into fact that two cases of like nature were registered against the applicants, I am not inclined to release the applicants on bail.

6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge