

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1953 of 2017**

Prakash Agrawal @ Chhotu S/o Salikram, Aged About 23 Years R/o
Sakti, Police Station & Tahsil Sakti, District Janjgir Champa (CG)

---- Applicant

Versus

State of Chhattisgarh Incharge Out Post Bhatgaon Police Station
Bilaigarh, District Balodazar Bhatapara Chhattisgarh

---- Respondent

For applicant	Mr. Basant Dewangan, Adv.
For Respondent/State	Mr. Anant Bajpai, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12/05/2017**

1. Heard finally.
2. The applicant has preferred this application for grant of bail as he is arrested on 3-3-2017 in connection with Crime No. 15/2016 registered in Outpost Bhatgaon, Police State Bilaigarh, Distt. Baloda Bazar Bhatapara for offence punishable under Section 379/34 of the IPC.
3. Learned counsel for the applicant submits that after investigation, charge sheet has been filed and the matter is pending before the JMFC, Bhatgaon, Distt. Baloda Bazar Bhatapara as Criminal Case No. 284/2016. Charge sheet has been filed against the present applicant and co-accused Ankit Agrawal. As per allegation, Bolero Pick-up bearing registration No. CG 04 JC 3466 had been stolen on 16-1-2016 which was ultimately recovered from the possession of co-accused Ankit Agrawal on 25-6-2016. Statement of the co-accused was recorded during investigation and in the said statement, co-accused Ankit Agrawal stated that he along with present applicant had stolen the said Bolero Pick-up and the said vehicle was kept inside the boundary wall of the shop of co-accused namely Omkar Traders, Kanchanpur, Sakti. Besides this, there is no any evidence collected by

the prosecution against the applicant. The statement of co-accused before the police cannot be used as evidence against the applicant under the provisions of Evidence Act. Nothing has been seized from the applicant and the main accused was granted bail in MCRC No. 4944/2016 dated 29-8-2016. The applicant has a better case than co-accused Ankit Agrawal from whose possession said vehicle was seized. The applicant is in jail since 3-3-2017. Though he was absconding but there is nothing in the charge sheet so as to connect the applicant with the crime. Hence he may be given opportunity to remain in bail during trial.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that it is a serious offence of theft of Bolero Pick-up. The after effect of the incident shown to be the great loss of livelihood of the complainant. Hence the bail application may be rejected.
5. Perused the matter.
6. The vehicle was seized from the co-accused. Nothing has been seized from the present applicant. Statement of the co-accused recorded by the Police cannot be read as evidence in trial as per provisions of Evidence Act. The main co-accused has been granted bail and case of the present applicant is much better than that of co-accused. Trial may take some time. The fact of absconding is not related to commission of the crime in question by the applicant. Considering the above facts and circumstances of the case, instant bail application is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety of the like sum to the satisfaction of the JMFC Bhatgaon for his appearance before the said Court regularly as and when directed by the said Court.

7. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this court or the Hon'ble Apex Court intentionally, (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature: (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.
8. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge