

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2013 of 2017**

- Nagendra @ Dipu Pyasi S/o Devendra @ Bablu Pyasi Aged About 28 Years R/o Village Lapribartola, Police Station : Sidhi, District: Shahdol, Madhya Pradesh.
- Anjani Kol S/o Ramdin Kol, Aged About 28 Years R/o Village : Lapribartola, Police Station - Sidhi, District- Shahdol, Madhya Pradesh.

---- Applicants

Versus

- State Of Chhattisgarh Through : Station House Office, Police Station Janakpur, District- Koriya, Chhattisgarh.

---- Respondent

AND**Misc. Criminal Case No. 3312 of 2017**

- Firoj Khan S/o Sabrej Khan Aged About 25 Years R/o Village Mithi, Police Station Sidhi, District Shahdol, Madhya Pradesh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Janakpur, District Korea, Chhattisgarh.

---- Respondent

For Applicant : Shri Gurudev I Sharan, Advocate
 For Respondent/State : Shri Neeraj Mehta, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****24.7.2017**

On behalf of the applicants, certified copy of the ordersheet of Judicial Magistrate First Class, Janakpur is placed for relevant facts.

The said certified copy is taken as part of the record.

2. Both the above mentioned bail applications are heard and disposed of by a common order as both arise out of same incident and crime number.

3. These are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.02/2017 registered in Police Station Janakpur, Distt. Korea (CG) for the offence punishable under Section 379 of the Indian Penal Code.

4. At the outset, it is submitted on behalf of applicant Nagendra @ Dipu Pyasi that he may be permitted to withdraw the bail application with liberty to revive the same after sometime.

5. As prayed, the instant M.Cr.C. No.2013/2017 so far as it relates to applicant Nagendra @ Dipu Pyasi, is disposed of as withdrawn without any appreciation on its merits reserving aforesaid liberty.

6. Learned counsel for the applicants submits that applicant Anjani Kol has been arrested on 04.01.2017 and applicant Firoj Khan has been arrested on 09.02.2017, after investigation, concerned police has filed charge sheet which is pending before Judicial Magistrate First Class, Janakpur, Distt. Korea as Criminal Case No.08/17. There is no criminal past of applicant Anjani Kol and in the present matter nothing has been seized from him, though his name was surfaced in the memorandum given by co-accused Nagendra @ Dipu Pyasi. With this, disclosure statement is of no relevance. From applicant Firoz Khan on the basis of his disclosure statement one pistol was recovered from village Malakdol, seizure does not disclose the said seizure so effected from the forest of Malakdol as surfaced in his disclosure statement and also the said seizure prima facie does not connect with applicant Firoz Khan for

the offence. Also applicant Firoz Khan was involved in another matter Criminal Case No.01/17 (State Vs. Nagendra Pyasi and Another). Applicant Firoz has been granted bail under Section 167(2) of the Cr.P.C. for the offence under Section 25 of the Arms Act, 1959 on 20.4.2017 by Judicial Magistrate First Class, Jankapur, Distt. Korea as the prosecution failed to file charge sheet within 60 days. Applicant Firoz Khan was also involved in another matter under Section 379 IPC for which the police has filed charge sheet and the same is pending as Criminal Case No.26/2017. Second Additional Sessions Judge, Manendragarh, Distt. Korea while hearing the bail petition No.71/17, granted bail to the applicant on 20.4.2017. Applicant Firoz Khan is not a convict, in the present matter there is a possibility that the prosecution will not succeed to connect him with the crime, hence, both the applicants may be granted bail.

7. Per contra, learned counsel for the State opposed the arguments advanced on behalf of applicant Firoz Khan as he has two earlier criminal antecedent and also opposed the bail application of applicant Anjani Kol looking to his role surfaced in the charge sheet.

8. Perused the entire material.

9. Applicant Anjali Kol is in custody for six months and twenty days, applicant Firoz Khan is in custody since five months and fifteen days, charge sheet has been filed, applicant Firoz Khan has already been granted bail in the aforementioned two matters. On due consideration of the entire evidence collected and its legal effect, I

am inclined to grant last opportunity to both the applicants so that they shall not involve in any other crime and shall remain peacefully in the society.

10. Accordingly, the bail applications filed on behalf of applicants Anjani Kol and Firoz Khan under Section 439 of the Cr.P.C. are hereby allowed.

11. It is directed that applicants Anjani Kol and Firoz Khan shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- each with two separate solvent sureties of Rs.25,000/- each to the satisfaction of Judicial Magistrate First Class, Janakpur, Distt. Korea for their appearance before the said Court as and when directed.

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

13. It is further directed that till the conclusion of the trial, applicants Anjani Kol and Firoz Khan shall mark their appearance before the Station House Officer/IO, Police Station Janakpur Distt.

Korea on **First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicants without any cogent and proper reason do not appear before the Police of Police Station Jankpur, Distt. Korea as directed, the concerned police may inform the trial Court for the act and if their non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicants shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

14. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

15. A copy of this order be kept in the records of M.Cr.C. No.3312/2017.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE