

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4673 of 2017

- Rado @ Radu Singh S/o Phool Singh, Aged About 35 Years, R/o Village Bhamoraisalhe, Police Station Bag, District Dhar Madhya Pradesh.
- Ratan Singh S/o Phool Singh, Aged About 26 Years (wrongly mentioned as Phal Singh), R/o Village Bhamoraisalhe, Police Station Bag, District Dhar Madhya Pradesh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pulgaon, District Durg Chhattisgarh.

---- Non-applicant

For Applicants – Shri S.K. Agrawal, Advocate.

For Non-applicant/State – Shri Sumit Jhanwar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

17-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that the applicants held arrested in connection with Crime No.19/2017 on 08-4-2017 by P.S. Pulgaon, District Durg, C.G. for the offence under Section 457, 380, 34 of the IPC. After investigation police had filed the charge sheet, which is pending before the JMFC Durg, C.G. as Criminal Case No. 922/17. In the said matter co-accused Rakesh Singh was shown absconding, it is submitted that the police will file the supplementary charge sheet under the relevant provisions, Section 173(8) of the Cr.P.C. Learned counsel for the applicants would further submit that in the present matter property stolen is worth Rs.90,250/- and from applicant Rodo @ Radu Singh silver ornaments worth Rs. 32,240/- has been seized on the basis of his memorandum statement and also from applicant Ratan Singh certain silver ornaments have been seized, though the police have not mentioned the approximate value of the ornaments seized from Ratan Singh. They are in custody since long. The matter will take some time. The applicants are first offender. They will not commit any offence in future. They may be enlarged on

bail.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and would submitted both the applicants are resident of Dhar, Madhya Pradesh. Co-accused Rakesh Singh is absconding. From both the applicants silver ornaments were seized. The ornaments were duly identified in the test identification. There is no any explanation for the possession of said ornaments. Hence, looking to the entire facts, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As both the applicants are in custody since 4 months and 9 days, though they are resident of District Dhar, Madhya Pradesh but during investigation the investigating agency may have collected material regarding criminal antecedent of both the applicants, if any, registered in Dhar District or in the State of Madhya Pradesh, but for the moment nothing to demonstrate earlier criminal antecedent of the applicants, looking to the entire facts, I am inclined to grant one last opportunity to the applicants so that they shall not involve themselves in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) with two solvent local sureties of Rs.50,000/- each to the satisfaction of the Judicial Magistrate First Class Durg, C.G. for their appearance before the said trial Court as and when directed till trial.

6. 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 above, the Court below may proceed further under the provisions of law under intimation.

7. The prosecuting agency is further directed to collect the matter regarding criminal antecedent of the applicants, if any, registered in their home district or home State. If any criminal antecedent earlier recorded prior to the incident, then the investigating agency shall file the said facts before the trial Court and with the above, the bail granted to the applicants shall be automatically cancelled without reference to the Bench and the trial Court shall take the applicants in custody along with other measures in the procedural law.

8. It is further directed that the applicants shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Pulgaon, District Durg, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of the said criminal case against them. If the applicants failed to mark their appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicants were not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicants shall stand cancelled by the trial Court without further reference to the Bench.

9. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

10. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge