

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4399 of 2017

- Vijay Kumar Shah S/o Shri Bharat Prasad, Aged About 48 Years, R/o Devrikhurd, Tahsil Bilaspur, Civil & Revenue District Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Katghora, Civil & Revenue District Korba, Chhattisgarh.

---- Non-applicant

For Applicant –Shri Goutam Khetrapal and Shri Purnendra Khichariya, Advocates.

For Non-applicant/State – Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

09-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.1/2017 on 14-06-2017 by P.S.Katghora, District Korba, C.G. for the offence under Section 379 of the IPC and Section 41(1)(d) of the Cr.P.C. Charge sheet has not yet been filed; remand Court is JMFC Katghora, C.G. Co-accused Wasim Yasini has not preferred any MCRC, he is still in custody. Learned counsel for the applicant would further submit that the applicant is owner of the matador CG 10 AA 9213 and during investigation police had seized papers showing ownership of the vehicle from the present applicant. Co-accused Wasim Yasini is driver of the said matador. Police during investigation seized the said matador containing 7 ton coal valued approximately Rs. 35,000/-, the applicant is nowhere involved in any of the crime. Police yet not traced the true owner of the said coal. The matter is registered on a suspicion as prima facie the co-accused failed to submit any document with the police regarding ownership of the said coal. The applicant is in jail since long. He is first offender with no earlier criminal antecedent. The applicant will not commit any offence in future. He may be granted bail as

the trial may take some time.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that as the applicant is owner of the vehicle and there is no any document showing ownership of the coal loaded in the said matador, hence there is valid suspicion that the said coal was stolen property. Hence, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicant is in custody since 1 month and 25 days till date, charge sheet has not yet been filed, trial may take some time, yet to determine who is owner of the said coal, the applicant was present in the matador, but as the applicant is first offender and no any similar or other crime registered against the applicant, looking to the entire facts and the fact that ownership of the said coal is not determined, I am inclined to grant one opportunity to the applicant so that he shall not involve himself in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- to the satisfaction of the Judicial Magistrate First Class Katghora, District Korba, C.G. for his appearance before the said Court as and when directed till trial.

6. 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; and (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.

7. It is further directed that the applicant shall appear in person before the IO/SHO/In-charge, as the case may be, of P.S. Katghora, District Korba, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp till disposal of the said criminal case against him. If the applicant failed to mark his 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 applicant was not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicant shall stand cancelled by the trial Court without further reference to the Bench.

8. 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.

9. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge