

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 5332 of 2017**

- Tikesh Dewangan, S/o Shri Ramsahay Dewangan, Aged About 20 Years, R/o New Krishna Nagar, Shyam Chowk, Supela, Police Station Supela, Bhilai, Tahsil And District Durg (Chhattisgarh).

---- Applicant**Versus**

- State Of Chhattisgarh Through District Magistrate, Durg, District Durg (Chhattisgarh).

---- Respondent**AND****MCRC No. 5005 of 2017**

- Vinod Uke, S/o Gajanand, Aged About 22 Years, R/o Shyam Chowk, Krishna Nager Supela Bhilai District Durg Chhattisgarh.

---- Applicant**Versus**

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

---- Respondent

For Applicant in MCRC No.5332/17	: Shri B.P. Singh, Advocate.
For Applicant in MCRC No.5005/17	: Shri B.P. Singh, Advocate.
For Non-applicant/State	: Shri vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****05.09.2017**

As both the cases arise out of the same crime number and incident, both are being disposed of by a common order.

2. Learned counsel for the applicant would submitted during the course of the arguments as the certified copy of the common order

sheet in Criminal Case No. 4595/17 by the Court Judicial Magistrate First Class, Durg (C.G.), 4672/17 by the Court Chief Judicial Magistrate, Durg (C.G.) and 5053/17 by the Court Judicial Magistrate First Class, Durg (C.G.) all the above 3 certified copy of the order sheet is taken on the record and form part of the record.

3. Learned counsel for the applicants would submit that both the applicants were arrested on 15/06/2017 in connection with the Crime No.247/2017, registered in Police Station Bhilai Nagar, Distt. Durg (C.G.) for the offence punishable under Section 379, 382 and 34 of the Indian Penal Code.

4. Learned counsel for the applicant submits that after investigation police had filed charge-sheet which is pending before the Judicial Magistrate First Class, Durg (C.G.). Learned counsel is not very sure for the criminal case number, but the Criminal Case No. 5199/17 is subject to correction. Learned counsel for the applicants would submit that the both applicants are in custody since long in the present matter. It is alleged that both the applicants by sharing common intention, snatched a mobile from the complainant. During investigation memorandum of the applicant Tikesh Dewangan has been prepared thereafter the motor-cycle used for commission of the offence has been seized from the applicant Tikesh Dewangan. But the mobile snatched from the complainant was ultimately not recovered. The applicants will not commit any offence in future and they are aged about 20 years and 22 years respectively, as the trial may take some time for its conclusion, they may be enlarged on bail till trial.

5. Learned counsel for the applicants would further submit that

as a Crime No. 236/17 under Section 379 & 34 of the IPC has been registered against both the applicants. In the said matter the complainant compounded the offence by filing the application before the Judicial Magistrate First Class, Durg (C.G.) in Criminal Case No. 5053/17 and the Trial Court allowed the application permitted to compound the matter acquitted the applicants on 21/07/2017 in another matter Crime No. 132/17 registered against both the applicants, charge-sheet has been filed which is pending before the Judicial Magistrate First Class, Durg (C.G.) as Criminal Case No. 4595/17 the Trial Court granted bail to both the applicants vide order dated 30/06/2017 and the applicants are in bail in that matter. Also another matter of Crime No. 483/17 has been registered under Section 379 read with Section 34 of the IPC, charge-sheet has been filed against both applicants before the Chief Judicial Magistrate, Durg (C.G.) which is registered as Criminal Case No. 4672/17 the Chief Judicial Magistrate, Durg (C.G.) granted bail to both the applicants vide order dated 30/06/2017 applicants may be given an opportunity. They will not commit any offence in future.

6. Per Contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the aforementioned on criminal matter of similar offence with this. The applicants had criminal antecedent, hence it is prayed that both MCRC may be dismissed.

7. Perused the entire matter.

8. As both the applicants are in custody since 2 months and 20 days till date, charge-sheet has been filed, though aforementioned 3 matters has been registered against the applicants, out of them in one matter the complainant made promise with the applicants and

both the applicants are acquitted in the said matter. In another 2 matters applicants granted bail by the Trial Court in the present matter. The snatched mobile has not been recovered, only the motor-cycle used for alleged offence has been seized, on consideration of entire facts, I am inclined to grant one last opportunity to the applicants so that they shall not commit any offence in future and shall remain peacefully in the society.

7. Consequently, MCRC is hereby allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.1,00,000/- each with two separate solvent sureties of Rs.50,000/- to the satisfaction of Judicial Magistrate First Class, Distt. Durg, as the case may be for their appearance before the said Court as and when directed.

9. 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.

10. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Bhilai Nagar, Distt. Durg **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 Bhilai Nagar, Distt. Durg 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.

11. Register (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.

12. Certified copy as per rules.

**Sd/-
(Chandra Bhushan Bajpai)
Judge**