

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 355 of 2018

- Santosh Kumar Gupta S/o Basudeo Gupta, Aged About 46 Years, Occupation Labourer, R/o. Village Bakipur, Fatua, P. S. Fatua (Patna), District Patna Bihar, Bihar

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Kotwali Ambikapur, District Surguja Chhattisgarh, Chhattisgarh

---- Non-applicant

And

MCRC No. 580 of 2018

- Ashok Rawat S/o Gopal Ram, Aged About 45 Years, R/o Atal Awas, Mohalla Babupara, Police Station Ambikapur Kotwali, Tahsil Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kotwali, Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Non-applicant

For Applicant – Shri G.R. Miri, Advocate (in MCRC No.355/2018),
Shri Kaushal Yadav, Advocate (in MCRC No.580/2018).
For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

20-03-2018

1. As both the applications arise out of the same crime number, i.e., Crime No.840/2016 registered at P.S. Kotwali, Ambikapur, District Surguja Chhattisgarh, they are being decided by this common order.
2. MCRC No.355/2018 filed by applicant Santosh Kumar Gupta is his second bail application before this Court under Section 439 of the Cr.P.C. for grant of regular bail, his first bail application before this Court was dismissed as withdrawn. MCRC No.580/2018 filed by applicant Ashok Rawat is his first bail application filed under Section 439 of the Cr.P.C. before this Court for grant of regular bail. Applicant Santosh Kumar Gupta in MCRC No.355/2018 has been

arrested on 09-02-2017 and applicant Ashok Rawat in MCRC No.580/2018 has been arrested on 23-12-2016 in connection with aforesaid crime number for the offence under Section 457, 380, 411, 34 of the IPC.

3. It is submitted by learned counsel for applicant Santosh Kumar Gupta in MCRC No.355/2018, that this applicant is innocent and he has been falsely implicated in this case. Charge sheet has been filed and the trial is pending against him. According to the prosecution case, there is no evidence against this applicant to prove his guilt. The memorandum statement of this applicant has no evidentiary value and only Rs.2000/- in cash has been recovered and seized from this applicant. The co-accused persons have been granted bail by this Court. Hence, it is prayed that this applicant may also be released on bail.

4. Learned counsel for applicant Ashok Rawat in MCRC No.580/2018 submits that no case is made out against this applicant, neither any memorandum statement has been recorded of this applicant, nor any seizure has been made from this applicant. This applicant is in jail since 23-12-2016. Hence, it is prayed that this applicant may be released on bail.

5. Learned counsel for the State/non-applicant opposes the applications. With regard to MCRC No.355/2018, it is submitted that applicant Santosh Kumar Gupta in MCRC No.355/2018 is resident of other State and he has some criminal antecedent, because of which, he was in jail when he was brought before the concerned trial Court on production warrant and formal arrest has been made in this case. The offence alleged against this applicant is of very serious nature as this is a case of offence of theft of property from the bank lockers of value of worth of Rs.2 crores and this applicant happens to be one of the main accused in this case. Hence, he is not entitled for grant of bail.

In relation with MCRC No.580/2018 it is submitted by the State counsel that there is sufficient evidence against applicant Ashok Rawat in MCRC No.580/2018 for prosecution against him. Hence, he is also not entitled for

grant of bail.

6. Heard learned counsel for the parties and perused the case diary.

7. A complaint was made by C.G. State Gramin Bank Ambikapur to P.S. Kotwali Ambikapur stating that between 10-12-2016 to 12-12-2016 some unknown persons by breaking open the lock of the bank premises, with the help of gas cutter and other tools opened 12 lockers and have stolen the property contained in those lockers. During investigation, according to the panchnama prepared some tools and gold ornaments were recovered at the instance of applicant Santosh Kumar Gupta, apart from the cash amount Rs.2000/- seized from him. Prosecution against applicant Ashok Rawat in MCRC No.580/2018 is this that he conspired in commission of this offence and also participated in the said offence. One mobile and motorcycle has been recovered from his possession at his instance. Call details records are relied upon by the prosecution to show his connection in the commission of crime in question.

8. Considered on the submissions made and contents of the case diary.

9. On perusing the entire contents of the case diary and considering the gravity of the offence committed and that the case against the applicants is not without evidence, hence, I am of this view that these applicants do not deserve to be granted bail.

10. Consequently, both these applications filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail are hereby dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge