

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6827 of 2018

1. Ashish Sarode S/o Virendra Sarode Aged About 42 Years, R/o Plot No. 80 Ratan Nagar Mankapur, Near Vikash Bhwan, Nagpur Maharashtra, District : Nagpur, Maharashtra
2. Sandeep Dongare S/o Kailash Dongare, Aged About 18 Years, R/o Ward No.34 Buddha Vihar Parsodi Near Gopal Trimurti Nagar, P. S. Ranapratap Nagar, District Nagpur Maharashtra, District : Nagpur, Maharashtra

---- Applicants

Versus

- State Of Chhattisgarh Through P.S. Kharsia District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 6202 of 2018

1. Narsingh Yadav S/o Sonau Yadav, Aged About 25 Years, R/o Village - Dataud, Tehsil And Police Station - Jaijaipur District Janjgir-Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Kharsiya, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 6961 of 2018

1. D.K.@Digambar Khapekar S/o Gulab Thapekar Aged About 30 Years, (wrongly mentioned as Thapekar) R/o Behind Police Chowki- Lalganj Mehadi Bag, Police Station- Panch Pawali, District- Nagpur, Maharashtra., District : Nagpur, Maharashtra

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Kharsiya, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Non-applicant

For Applicant(s) – Shri Vineet Kumar Pandey, Advocate (in MCRC No.6827/2018),
Shri N.K. Chatterjee, Advocate (in MCRC No.6961/2018),
Shri Surfaraj Khan, Advocate (in MCRC No.6202/2018).
For Non-applicant/State – Shri Ashish Shukla, Govt. Advocate.
Shri K. Rohan and Shri Abhishek Agrawal, Advocates for objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-10-2018

1. As these three applications arise out of the same crime number, i.e., Crime No. 158/2017 registered at P.S. Kharsiya, District- Raigarh, Chhattisgarh, they are being decided by this common order.
2. MCRC No.6961/2018 is first bail application before this Court filed by applicant D.K.@Digambar Khapekar for grant of regular bail under Section 439 of the Cr.P.C. MCRC No.6827/2018 is second bail application filed by applicants Ashish Sarode and Sandeep Dongare for grant of regular bail under Section 439 of the Cr.P.C. Their first bail applications was dismissed by this Court on merits. MCRC No.6202/2018 is third bail application before this Court filed by applicant Narsingh Yadav for grant of regular bail under Section 439 of the Cr.P.C. His first bail application was dismissed on merits and second bail application was dismissed for want of prosecution.
3. Applicants Ashish Sarode and Sandeep Dongare (applicants in MCRC No.6827/2018) have been arrested on 22-03-2017 and applicant Narsingh Yadav (applicant in MCRC No.6202/2018) and applicant D.K.@Digambar Khapekar (applicant in MCRC No.6961/2018) have been arrested on 26-04-2017 in connection with Crime No.158/2017, registered at P.S. Kharsiya, District Raigarh, C.G. for the offence punishable under Section 392, 396, 460, 120-B of the IPC and Section 25 of Arms Act.
4. Learned counsel for applicant Narsingh Yadav (applicant in MCRC No.6202/2018) submits that firstly there is ground of delay and that the applicant in this case was not a direct participant in commission of the offence. Important witnesses have been examined and there is no other witness to make any statement against him. This applicant has been charged as conspirator regarding which no case is made out. Hence, it is prayed that this applicant may be granted regular bail.
5. Learned counsel for applicant D.K. @ Digambar Khapekar (applicant in

MCRC No.6961/2018) submits that there is no evidence against this applicant, according to the deposition of the witnesses who have been examined so far. The seizure of property and identification made in investigation are doubtful and there is no prima facie case in favour of the prosecution. Hence, this applicant may be granted regular bail.

6. It is submitted by learned counsel for applicants Ashish Sarode and Sandeep Dongare (applicants in MCRC No.6827/2018) that these applicants have been made accused in this case only on the basis of record of the phone calls which is no certain proof, hence, they may be granted regular bail.

7. Learned counsel for the State/non-applicant opposes the applications and submits that as the earlier application for grant of bail has been rejected on merits, hence, the case of the applicants cannot be now argued on merits. Regarding the change in circumstances it is submitted that there is no change as such and further there is no such delay in trial as it is making progress. Hence, for these reasons, the applications do not deserve to be allowed.

8. Learned counsel for objector after adopting the argument advanced by the State counsel submits that there are witnesses of seizure and identification who are yet to be examined and looking to the gravity of the offence that has been committed, none of the applicants is entitled for grant of bail, hence, the applications may be rejected.

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

10. As the earlier application has been decided on merits, hence, there is no need to go into the merits of the case. Only circumstance which can be considered is delay in conclusion of the trial. Subsequent to earlier rejection order dated 09-01-2018, it is informed that so far 9 witnesses have been examined in the case, but list of the witnesses in this case is of 37 witnesses which is certainly going to take some time. There are charges of conspiracy

and dacoity with murder and as per the case of prosecution, all the applicants who have not directly participated in the incident of dacoity have worked in unison, because of which the commission of offence has succeeded. The offence committed is of grave nature, hence, there is requirement of further time in conclusion of the trial. Detention of the applicants in these cases cannot be said to be unjustified. Hence, I do not feel inclined to allow these applications.

11. Consequently, all these applications filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail are rejected. However, the trial Court is directed to expedite the trial and conclude the same within a period of one year from today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge