

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 715 of 2019**

Rahul Soni S/o Rakesh Soni Aged About 19 Years R/o V-21/25, Valmiki
Nagar, P. S. Kabir Nagar, Raipur District Raipur Chhattisgarh

---- **Applicant**

Versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Pandari, Raipur District Raipur Chhattisgarh

---- **Respondent****ALONG WITH****MCRC No. 1023 of 2019**

Dashrath Tandi S/o Shri Kishore Tandi Aged About 18 Years R/o P. S.
02, Rotari Nagar, Police Station Amanaka, Raipur, Chhattisgarh.

---- **Applicant**

Versus

State Of Chhattisgarh Through Station House Officer, Police Station
Pandri Raipur, Civil And Revenue District Raipur, Chhattisgarh.

---- **Respondent**

For the Applicants	:	Shri Sumit Singh Rathore, Advocate (MCRC No.715/2019) and Shri Vijay Sahu, Advocate appears on behalf of Shri C.R. Sahu, Advocate (MCRC No. 1023/2019)
For the State	:	Shri Wasim Miyan, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**14/02/2019**

1. Above mentioned two applications arise out of a common Crime No.507/2018 registered at Police Station Pandari, District Raipur for the offence punishable under Sections 379, 34 of IPC, therefore, they are being heard analogously and decided by this common order. Both the bail applications are the first bail application filed under Section 439 of CrPC.
2. Case of the prosecution, in brief is that in the intervening night of 08/12/2018 and 09/12/2018 in front of the labour room of complainant Meghnath Dhiwar, situated at village Kachna, his motorcycle bearing registration number C.G. 04 M 5183 was stolen by some unknown persons. On the memorandum of applicant Rahul Soni same motorcycle was seized from him.
3. Learned counsel for the applicants submits that they are innocent and falsely implicated in the present case, therefore, they shall be released on bail.
4. On the other hand, counsel for the State opposes the bail application. He further submits that no criminal antecedents against the applicants.

5. The complicity of the applicant Dashrath Tandi is described in his own memorandum of co-accused Rahul Soni.
6. As per the Section 27 of the Indian Evidence Act, an accused of any offence gives some information in custody and in consequence thereof, any fact is discovered then such portion of the information is admissible as is distinctly relates to the discovery. Such information may confessional or not.
7. Hon'ble Supreme Court in the matter of **Madhu vs. State of Kerla (2012) 2 SCC 399** has laid down the following judicial precedent :-

Relevance of the confessional statements would depend upon discovery of unknown facts based on information supplied by accused if any fresh fact have been discovered on basis of confessional statement made by accused, the same would be relevant. If not, confessional statement cannot be proved against the detriment of accused.

8. Hon'ble Supreme Court in the matter of **Jitendra Kumar vs. State of Haryana (2012) 6 SCC 204 (to be taken out from Library)** has laid down the following judicial precedent :-

What has been recorded in disclosure statement of accused cannot be taken to be confession of accused in relation to commission of the crime but other part by which the motorcycle was recovered would be portion admissible in evidence. Admissible part can be safely segregated from inadmissible part in this statement.

9. Looking to the provision of Section 27 of the Evidence Act and aforesaid judicial precedents, laid down by Hon'ble Supreme Court in **Madhu** (supra) and **Jitendra Kumar** (supra), this court finds that the information given by an accused through memorandum is admissible in evidence to such extent it relates to the discovery of some incriminating article.
10. The concerned Court did not consider this well settled legal principle which should have been considered.
11. Looking to the facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, it is directed that if the applicant **Rahul Soni**, furnishes two solvent sureties for a sum of Rs. 25,000/- each along with a personal bond of Rs.50,000/- to the satisfaction of the concerned Court with the condition that he shall appear before the trial Court at 11.00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.
12. Looking to the facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence, it is directed that if the applicant **Dashrath Tandi** furnishes one solvent surety for a sum of Rs. 25,000/- along with a personal bond in the like sum to the satisfaction of the concerned Court with the condition that he shall appear before the trial Court at 11.00 am as and when directed till trial and he would cooperate during the trial, he shall be released on bail.

Sd/-
(Sharad Kumar Gupta)
Judge