

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 1433 of 2019**

1. Dilip Kumar Banjare S/o Maya Ram Banjare Aged About 30 Years  
Caste Satnami R/o Village Hardi Vishal, P. S. And Tahsil Baloda District  
Janjgir Champa Chhattisgarh
2. Ranjeet Kumar S/o Sivan Lal Aged About 37 Years Caste Satnami R/o  
Village Saraishrinagar, Chowki Hardi Bazar, Tahsil Katghora, District  
Korba Chhattisgarh

---- Applicants

**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police  
Station Baloda District Janjgir Champa Chhattisgarh

---- Respondent

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| For applicants          | Mr. N.K. Chatterjee, Adv. |
| For non-applicant/State | Mr. Vinod Tekam, PL.      |

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**Hon'ble Shri Justice Sharad Kumar Gupta****Order On Board****13-3-2019**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court and their no bail application is pending before any other court.
2. The applicants have been arrested in connection with Crime No. 34/2019 registered in police station Baloda, Distt. Janjgir Champa (CG) for offence punishable under Section 407, IPC.
3. Perused the case diary.
4. Prosecution story in brief is that applicant No. 1 Dilip Kumar Banjare is driver of a trailer bearing registration No. CG 10 R 1405. Applicant No. 2 Ranjit Kumar is also driver. On 2-2-2019, 26.400 ton wash coal worth Rs. 1,50,000/- was loaded in the said trailer to dump in CCI Railway siding, Akaltara. Applicant No. 1 Dilip Banjare did not dump said wash coal at the said place and dumped it at village Buchi Hardi.
5. Complicity of the applicant No. 2 Ranjit Kumar is described in the memorandum of applicant No. 1 Dilip Banjare.
6. Counsel for the applicants argued that the applicants are innocent and have been falsely implicated hence they be released on bail.
7. On the other hand, the State Counsel opposed the bail application. He further submits that no criminal antecedent has been reported against applicants in the police case diary.
8. 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 be confessional or not.

9. Hon'ble Supreme Court in the matter of **Madhu -v- State of Kerala** [(2012) 2 SCC 399] has laid down the following judicial precedent :-

Relevance of confessional statement would depend upon discovery of unknown facts based on information supplied by accused if any fresh fact has 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.

10. Hon'ble Supreme Court in the matter of **Jitendra Kumar -v- State of Haryana** [(2012) 6 SCC 204] 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 crime but other part by which motorcycle was recovered would be portion admissible in evidence. Admissible part can be safely segregated from inadmissible part in this statement.

11. 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.
12. The Addl. Sessions Judge did not consider this well settled legal principle which it should have considered, as regards case of applicant No. 2 Ranjeet Kumar.
13. Looking to the above facts and circumstances of the case, and as trial will take its own time, the application is allowed.
14. It is ordered that if the applicant No. 1 Dilip Kumar Banjare furnishes two solvent sureties for a sum of Rs. 25,000/- each along with one personal bond of Rs. 50,000/- to the satisfaction of the trial Court concerned, he be released on bail.
15. It is also ordered that if the applicant No. 2 Ranjeet Kumar furnishes one solvent surety for a sum of Rs. 25,000/- along with one personal bond of the like sum to the satisfaction of the trial Court concerned, he be released on bail.
16. CC as per rules.

Sd/-  
(Sharad Kumar Gupta)  
Judge