

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 2527 of 2019**

Ajit Singh, son of Gangasagar Singh, aged about 37 years, R/o Village Ahroli, P.S. Ahroli, Aaudyogik Nagar, Baksar, District Baksar (Bihar).

---- Applicant**Versus**

State of Chhattisgarh, through District Magistrate, Durg, District Durg (CG).

---- Non-applicant**AND****MCRC No. 2594 of 2019**

Virendra Singh (wrongly mentioned as Birendra Singh), S/o late Satyanarayan Singh, aged about 33 years, R/o Himalay Heights Dumartrai, P.S. Rajendra Nagar, Raipur, District Raipur (CG).

---- Applicant**Versus**

State of Chhattisgarh, through Station House Officer, Police Station Pulgaon, District Durg (CG).

---- Non-applicant

For Applicants	: Mr. Praveen Dhurandhar & Mr. Vivek Tripathi, Advocates
For Non-applicant	: Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

26.04.2019

1. Above mentioned two bail applications arise out of a common Crime No.68/2019 registered at Police Station Pulgaon, District Durg for the offence punishable under Sections 379, 411, 34 of Indian Penal Code, therefore, they are being heard analogously and decided by this common order. All the two are first bail applications filed under Section 439 of the CrPC.
2. Case of the prosecution, in brief is that the name of the complainant is Yuvraj Singh Thakur. He is the owner of Sumo Vehicle bearing Registration No.C.G.07-A.V.6117. In the intervening night of 05/06.02.2019 near the house of driver Sandeep Sahu, the said vehicle was stolen by some unknown persons. On the memorandum of applicant-Ajit Singh, one Sumo Vehicle was seized from him.
3. Counsel for the applicants respectively submitted that the applicants have not committed any offence. They are innocent and have been falsely implicated in the present case, therefore, they may be released on bail.

4. On the other hand, counsel for the State opposed the bail applications of the applicants. However, he submitted that previously no criminal antecedent is reported against the applicants in police case diary.
5. The complicity of the applicant Virendra Singh shown in his own memorandum as well as in the memorandum of co-accused Satveer Singh.
6. As per 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 -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 facts 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 -v- 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 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.”
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. Sixth Additional Sessions Judge, Durg did not consider this well settled legal principle which it should have considered.
11. Looking to the these facts and circumstances of the case, looking to the fact that there is no likelihood of the accused to abscond and tamper the evidence; and the trial is likely to take some more time for its final disposal, this Court is inclined to give benefit of Section 439 of the Cr.P.C. to the applicants. Accordingly, the bail applications (M.Cr.C. No.2527/2019 & M.Cr.C.

No.2594/2019) are allowed.

12. It is directed that in each case the applicants namely Ajit Singh and Virendra Singh furnish one solvent surety for a sum of Rs.25,000/- each along with a personal bond in the like sum to the satisfaction of the concerned Trial Court with the condition that they shall appear before the Trial Court at 11:00 am as and when directed till trial and they would co-operate during the trial, they shall be released on bail.

13. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)

JUDGE

L/-