

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 9350 of 2018**

1. Golu @ Talvindar Son of Diwanchand, aged about 28 years, R/o Near Bus Stand, Thana and Tahsil Saraipali, District Mahasamund (CG).
 2. Ashok Chhavda, son of Setram Chhavda, aged about 48 years, R/o Village Echchhapur, Thana and Tahsil Saraipali, District Mahasamund (CG).
 3. Gagan Chhavada, son of Ashok Chhavda, aged about 26 years, R/o Village Echchhapur, Thana and Tahsil Saraipali, District Mahasamund (CG).
- Applicants**

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Saraipali,
District Mahasamund (CG).

---- Non-applicant

For Applicants : Mr. Vikash Pradhan, Advocate.
For Non-applicant : Mr. Arvind Shukla, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Order On Board

09.01.2019

1. Case diary is not produced.
2. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court and no other bail application is pending before any other Court.
3. Perused the copy of charge-sheet provided by the counsel for the applicants in connection with Crime No.262/2018 registered at Police Station Saraipali, District Mahasamund for the offence punishable under Sections 379/34 of Indian Penal Code.
4. At the outset, counsel for the applicants submits that he does not want to press the bail application of the applicant No.1-Golu @ Talvindar hence the bail application of the applicant No.1-Golu @ Talvindar is rejected without considering the merits of the case.
5. Case of the prosecution, in brief is that in the intervening night of 15.16/08/2018 in front of shop of complainant Sunil Kumar Agrawal, his motorcycle bearing registration No.C.G.04D.H.6653 was stolen by some unknown persons. On the memorandum of applicant No.3-Gagan Chhavda,

which was recorded in Crime No.0/2018, one motorcycle without registration number and Chasis No.M.B.L.H.A.10-A.H.A.9K02145 was seized from him. In Crime No.0/2018, Police Station Saraipali, one motorcycle bearing registration No.C.G.06/5643 was seized from the possession of the Applicant No.2-Ashok Chhavda.

6. The complicity of applicant No.3-Gagan Chhavda has described in the memorandum of accused Golu @ Talvindar, co-accused Vijay Bariha and in his own memorandum recorded in Crime No.0/2018, Police Station, Saraipali, which are not admissible in evidence.
7. Counsel for the applicants submits 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.
8. On the other hand, counsel for the State opposes the prayer for grant of bail to the applicants.
9. Counsel for the State submitted that five criminal cases have already been registered against the applicant No.2-Ashok Chhavda and applicant No.3-Gagan Chhavda, but looking to the evidence available on record, the applicants No.2 & 3 are entitled to get benefits of Section 439 of CrPC and further 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 No.2 & 3. Accordingly, the bail application is allowed.
10. It is directed that if the applicants No.2 & 3 namely Ashok Chhavda & Gagan Chhavda respectively 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.
11. Certified copy as per rules.

SD/-

(Sharad Kumar Gupta)
JUDGE