

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 9863 of 2018

- Satish Kol S/o Semlu Kol Aged About 30 Years Caste- Kol, R/o Karondi, Tahsil And District- Anuppur, Madhya Pradesh., District : Anuppur, Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Pendra, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

MCRC No. 9908 of 2018

- Jitendra Singh Sisodiya So Jagdish Singh Sisodiya Aged About 25 Years R/o Ward No. 1, chakhori Police Station Majholi District Sidhi Madhya Pradesh At Present R/o Chandras Tola Anuppur ,district Anuppur Madhya Pradesh, District : Anuppur, Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pendra ,district Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicants : Shri Avinash Chand Sahu and Shri U.K.S. Chandel,
Advocate

For Non-applicant : Shri SRJ Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar GuptaOrder On Board17.01.2019

1. Since both the petitions arise from same crime No., these bail petitions are being disposed off simultaneously.
2. MCRC 9863/2018 is the first bail application and MCRC 9908/2018 is the second bail application filed under Section 439 of the Cr.P.C. preferred by the respective applicants before this Court and no other bail application is pending before any other

Court.

3. Perused the case diary provided by the learned counsel for the State in connection with crime No. 253/2018 registered at Police Station – Pendra, District- Bilaspur (C.G.) for the offence punishable under Section 414, 379/34 of the IPC.
4. Case of the prosecution, in brief is that complainant Hema Bai Shyam on 20.07.2018 at about 18:00 hours was purchasing garments from Perfect Collection Counter at Pendra. She had kept her purse on the counter of said shop. Rs. 2,96,000/- were kept in that purse. Two unknown persons reached there by red pulsar motorcycle. One unknown person entered in the shop and took out her bag. That person fled away along with his companion.
5. The complicity of the applicant Satish Kol is described in the memorandum of applicant Jitendra Singh and coaccused Indramani Prasad Chandrawanshi. Complicity of the applicant Jitendra Singh Sisodiya is described in the memorandum of applicant Satish Kol which are not admissible in evidence. From the memorandum of applicant Jitendra Singh Sisodiya one motorcycle has been seized from him. On the memorandum of applicant Satish Kol 3 notes of denomination Rs. 500 have been seized from him.
6. Learned counsel for the applicants submits that applicants have no criminal background, they are innocent and have been falsely implicated in the present case, therefore, they shall be released on bail.
7. On the other hand, learned counsel for the State opposes the bail application, however, submits that there is no antecedent against the applicant Satish Kol and there is one similar type of case has been registered against Jitendra Singh Sisodiya.
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 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 the confessional statements would depend on the discovery of facts based on the information supplied by the accused. If any fresh facts have been discovered on the basis of the confessional statement made by the accused, the same would be relevant. If not, the confessional statement cannot be proved against the accused, to the detriment of the 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 Ext.P43 cannot be taken to be confession of the accused in relation to commission of the crime, but the other part by which the motor cycle was recovered, would be the portion admissible in evidence. The admissible part can very safely be segregated from the 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. 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 applicant-**Satish Kol** furnishes one solvent surety for a sum of Rs.25,000/- each along with a personal bond of Rs. 25,000/- to the satisfaction of the concerned Trial Court with the condition that he will 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. It is directed that if the applicant- **Jitendra Singh Sisodiya** 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 Trial Court with the condition that he will not involve in any crime in future, he will 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.

13. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE