

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 166 of 2019**

- Jitendra Singh Sisodiya S/o 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 U.K.S. Chandel, Advocate
For Non-applicant	: Shri SRJ Jaiswal, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****17.01.2019**

1. This is second bail application filed under Section 439 of the Cr.P.C. preferred by the applicant before this Court and no other bail application is pending before any other Court.
2. The first bail petition was dismissed on default on 01.12.2018 in MCRC No. 8899 of 2018.
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 379, 414/34 of the IPC.
4. Case of the prosecution, in brief is that complainant Yugal Poddar is resident of Pendra. On 18.08.2018 at about 13/14 hours he had parked his motor cycle in front of Ansali Tent House and went to the said Tent House. A bag was lying on the handle of the said motorcycle. Three lakhs rupees were kept in the said bag. When he returned back then he found that some unknown persons have stolen his bag.
5. The complicity of the applicant is described in his memorandum which is not admissible in evidence. Nothing was seized from him on the strength of memorandum.
6. Learned counsel for the applicants submits that applicant has no criminal background, he is innocent and has been falsely implicated in the present case, therefore, he shall be released on bail.

7. On the other hand, learned counsel for the State opposes the bail application, and submits that there is one similar type of case has been registered against the applicant.
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 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 the applicant 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