

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 549 of 2021**

Rajkumar, S/o Prahlad Ram, Aged about 37 years, R/o Minus Colony, Ward No.-13, Bishrampur, P.S.- Bishrampur, Tahsil+Dist.- Surajpur (C.G.)

-----Applicant**Versus**

- State of Chhattisgarh, Through P.S.- Surajpur, Distt. - Surajpur (C.G.)

---- Non-applicant

For Applicant	:	Mr. Jai Prakash Shukla, Advocate.
For Non-applicant	:	Mr. Vikram Sharma, Dy. Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**Order on Board.****02/03/2021**

Heard.

1. Applicant has preferred this bail application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No. 357/2020 (wrongly mentioned as 351/2020 in cause title portion of the Certified copy) registered at Police Station Surajpur, Dist. Surajpur (C.G.) for the offence punishable under Section 395 of IPC.
2. Case of the prosecution, in brief, is that in the intervening night of 1.9.2020 to 2.9.2020, at about 1.30 am. applicant along with other persons, after entering into the SECL underground mines, have snatched mobile phone of Surendra Pathak (CDS Operator) and Shri

Jogendra Kumar deputed in sub-station. They have also created atmosphere of threat after breaking Wall of the store room and have committed robbery of 15 metre PVC armed cable. FIR to this effect was lodged by the Manager at the concerned Police Station.

3. Mr. Jai Prakash Shukla, learned counsel for the applicant submits that applicant has been arrested in a false and frivolous case. As per case of the prosecution itself, FIR has been lodged against 10-12 unknown persons stating therein that those persons have assaulted Security Guard and tied of his hands and legs stolen 15 metre PVC armed cable from the Store House. He further submits that even after arrest of the present applicant, no test identification parade has been conducted by Investigating Agency to ascertain whether the applicant was the person, who was involved in the commission of offence or not. Seizure of only 5 kilograms copper wire worth Rs.3,000/- has been made from the home of the present applicant. He also submits that the applicant is in detention since 2.9.2020; charge sheet has already been filed and as the applicant is local resident of Surajpur, there is no chance of his absconding after his releasing on bail, therefore, the applicant may be released on regular bail.
4. On the other hand, Shri Vikarm Sharma, learned counsel for the non-applicant/ State submits that on the basis of FIR, present applicant along with three other co-accused persons namely Basant Kol, Pramod Mandal and Dileep Singh Rajput were arrested. As per the documents available in the case diary, applicant and other co-

accused persons are involved in similar nature of offence. Hence, the applicant is not entitled for grant of benefit under Section 439 Cr.P.C.

5. At this stage, Shri Jai Prakash Shukla, learned counsel for the applicant submits that the other criminal antecedents as submitted by counsel for the State does not bear the name of the persons or the crime number. Hence, that cannot be relied upon considering this application.
6. I have heard learned counsel appearing for the respective parties.
7. Taking into consideration the nature of allegation and the submission made by learned counsel for the parties that after arrest of the present applicant, Test Identification Parade of the present applicant has not been conducted even when the FIR has been lodged against 10-12 unknown persons; further considering the fact that the applicant is in detention since 2.9.2020 and the charge sheet has already been filed, and further considering the fact that on query being made by this Court, State Counsel fairly submitted that there is no mention of names and crime number in the objection, I am inclined to release the applicant on bail.
8. Accordingly, the bail application is allowed. It is directed that the applicant be released on regular bail on his furnishing a bail bond in the sum of Rs.10,000/- with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that-
 - a) The applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

- b) The applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge

Dubey/-