

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 506 of 2021**

1. Babulal Behra, son of Surendra Behra, aged about 24 years, Resident of Satmoja, PS Mohangiri, District Kalahandi (Orissaa).
2. Amit Tiwari, Son of Laxmikant Tiwari, aged 22 years, resident of Baghratiwari, PS Vidhyanchal, District Marjapur (UP)\
3. Saurab Mishra, Son of Narayandev Mishra, aged 23 years, Resident of Tisentulapur, PS MANDA, District Allahabad (UP).

-----Applicants**Versus**

- State of Chhattisgarh through the Station House Officer, Police Station City Kotwali, District Baldabazar (C.G.)

---- Non-applicant

For Applicants	:	Mr. Manay Nath Thakur, Advocate.
For Non-applicant	:	Mr. Siddharth Dubey, Dy.Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu**ORDER****01/03/2021**

1. Applicants have preferred this application under Section 439 Cr.P.C. for grant of regular bail as they have been arrested in connection with Crime No. 9/21 registered at Police Station City Kotwali, Baldabazar (C.G.) for the offence punishable under Section 392 of IPC.
2. Shri Manay Nath Thakur, learned counsel for the applicants submits that false and frivolous allegations have been levelled against the applicants. The applicants have not committed any offence though

the names of the applicants have been mentioned in the FIR but the person, who has lodged FIR i.e. Gopal Singh, driver of the alleged truck, has specifically stated in his statement recorded under Section 161 of the Cr.PC that the truck has been taken by three unknown persons. This very fact available in the case diary, prima facie shows that applicants have been falsely implicated in the case. He further submits that the compliant has been lodged by Gopal Singh, driver of the vehicle Truck, naming all the three accused persons, but in his statement recorded under Section 161 CrPC, allegations are against unknown persons. Investigating Officer has also not conducted Test Identification parade to identify the present applicants. He also submits that there is no other criminal antecedent against the present applicants, they are teenagers, aged about 24 years, 22 years and 23 years, respectively and are in detention since 3.1.2021, therefore, they may be released on bail.

3. On the other hand, Shri Siddharth Dubey, learned counsel for the State submits that FIR has been lodged in the name of all three accused persons, and on the basis of memorandum statement of applicant No. 1, three keys, which are said to be keys of truck in question, have been seized from the possession of applicant No. 1, therefore, the applicants are not entitled for the benefit under Section 439 of the Cr.P.C.
4. On a query being made from the learned counsel for the State with regard to the criminal antecedents of the applicants, he submits that as per case diary, the applicants are not having any criminal

antecedents.

5. I have learned counsel for the respective parties.
6. Taking into consideration the nature of allegations, statement of complainant -Gopal Singh, driver of the Truck in question, wherein he made allegations against the unknown persons and further considering the fact that police have not conducted the Test Identification Parade of the present applicants, their pre-trial detention, the offences levelled against the applicants are triable by Magistrate, without further commenting on merits of the case, I am inclined to release the applicants on bail.
7. Accordingly, the bail application is allowed. It is directed that the applicants be released on regular bail, on their furnishing a bail bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that-
 - a) They shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
 - b) The applicants shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicants are 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

D/-