

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1720 of 2021**

- Pramod Mandal S/o Rameshwar Mandal, Aged about 30 years, Caste Sundi, R/o Village Fokatpara, P.S. Jainagar, Tehsil & District Surajpur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House officer, Surajpur, District Surajpur (C.G.)

---- State/Non-applicant

M.Cr.C. No. 1659 of 2021

- Basant son of Ramcharan, aged about 35 years, Caste- Gond, resident of Village-Podi, Police Station & Tahsil- Surajpur, District Surajpur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House officer, Police Station -Surajpur, District Surajpur (C.G.)

---- State/Non-applicant

And**M.Cr.C. No. 2259 of 2021**

- Dilip Singh Rajput Son of late Jalandhar Singh, aged about 42 years, R/o Minus Colony Vishrampur, Police Station Vishrampur, District Surajpur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : The Station House Officer, Police Station Surajpur, District Surajpur (C.G.)

---- State/Non-applicant

For Applicant	:	Shri Shakti Raj Sinha, Advocate appears in M.Cr.C. No. 1720 of 2021
For Applicant	:	Shri Ram Vifal Ram Rajwade, Advocate appears in M.Cr.C. No. 1659 of 2021
For Applicant	:	Shri Vijay Kumar Sahu, Advocate appears in M.Cr.C. No. 2259 of 2021
For Non-Applicant/State	:	Shri Dinesh Kumar Tiwari, Deputy Government Advocate appears in all the applications

Hon'ble Shri Justice Gautam Chourdiya, J
Order on Board

06.04.2021

1. As all these first bail applications under Section 439 of Cr.P.C. preferred by the applicants arise out of the same crime number i.e. 357/2020 registered in Police Station- Surajpur, District Surajpur (CG) for the offence punishable under Section 395 of IPC, they are being disposed of by this common order.
2. Case of the prosecution, in brief, that in the intervening night of 01.09.2020 to 02.09.2020, at about 01:30 am, the presents applicants alongwith 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 armered cable. F.I.R. to this effect was lodged by the Manager at the concerned Police Station.
3. Learned counsel for the applicants submit that the applicants have been arrested in a false and frivolous case. As per case of the prosecution itself, F.I.R. 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 armered cable from the Store House. They further submits that even after arrest of the present applicants, no test identification parade has been conducted by Investigating Agency to ascertain whether the applicants were the persons, who were involved in the commission of offence or not. They also submit that seizure of only 5 kilograms copper wire worth Rs.3,000/- has been made from the home of co-accused namely Rajkumar and he has been granted regular bail by the coordinate bench of this Court vide order dated 02.03.2021 passed in M.Cr.C. No. 549 of 2021. They submit that the applicants are in detention since 02.09.2020,

05.09.2020 & 21.10.2020, charge-sheet has already been filed and as the applicants are local resident of Surajpur, there is no chance of his absconding after their releasing on bail, therefore, the applicant may be released on regular bail.

4. On the other hand, learned counsel for the State submits that on the basis of F.I.R., present applicants alongwith co-accused Rajkumar were arrested. As per the documents available in the case diary, the present applicants and co-accused Rajkumar are involved in similar nature of offence. Hence, the applicants are not entitled for grant of benefit under Section 439 Cr.P.C.
5. At this stage, learned counsel for the applicants submit 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 these applications.
6. I have heard learned counsel appearing of 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 applicants, Test Identification Parade of the present applicants have not been conducted even when the F.I.R. has been lodged against 10-12 unknown persons, further considering the fact that the applicants are in detention since 02.09.2020, 05.09.2020 & 21.10.2020 and 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 and that the co-accused has already granted regular bail by the coordinate bench of this Court, I am inclined to release the applicants on bail.
8. Accordingly, the bail applications are allowed. It is directed that the applicants be released on regular bail on each of them 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 applicants 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.

9. In the result, M.Cr.C. No. 1720 of 2021, M.Cr.C. No. 1659 of 2021 and M.Cr.C. No. 2259 of 2021 are allowed on the above terms and conditions.

Sd/-
(Gautam Chourdiya)
Judge

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