

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5131 of 2021

1. Hemant Kumar Chauhan S/o Ravishankar Chauhan, Aged About 19 Years, Resident Of Bhatikuda Chowki, Hardibazar, Police Station Kusmunda, Tehsil Katghora, District Korba (C.G.).
2. Jay Prakash Khare S/o Firat Ram Khare, Aged About 20 Years, Resident Of Barpali, Mohalla Gevra Basti, Police Station Kusmunda, Tehsil Katghora, District Korba (C.G.).

---- Applicants

Versus

1. State Of Chhattisgarh, Through S.H.O. P.S. Kusmunda, District Korba (C.G.).

---- Non-applicant

For Applicants	:	Mr. Avinash Chand Sshu, Advocate.
For Non-Applicant/State	:	Mr. Rahim Ubwani, P.L.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

04/08/2021

- 1) The matter is heard through Video Conferencing.
- 2) The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 10/07/2021 in connection with Crime No. 301/2021 registered at Police Station Kusmunda, District Korba (C.G.) for the offence punishable under Section 379/34 of Indian Penal Code and under Section 3 & 7 of Essential Commodities Act.
- 3) Allegation against the present applicants is that on 09/07/2021 they alongwith other co-accused persons committed theft of Diesel from SECL, Kusmunda Mines. From the possession of applicant Hemant Kumar Chauhan one Bolero vehicle used in commission of crime and 35 liters diesel were seized and likewise from the applicant Jay Prakash Khare one Bolero vehicle used in commission of crime and

35 liters diesel as well as one 5 meters plastic pipe were seized. On report being lodged to the above effect by the complainant Amresh Kumar Singh, Security In-charge, Kusmunda Project, the aforesaid offence has been registered against the accused persons.

- 4) Learned counsel for the applicants submit that the applicants are innocent and have been falsely implicated in the case. The applicants were arrested on 10/07/2021. He also submits that applicants have no criminal antecedents, no apprehension of the applicants tampering with the evidence or absconding and conclusion of trial is likely to take some time for its disposal. Therefore, the applicants be released on bail by this Court.
- 5) On the other hand, learned counsel for the State opposes the bail application. However, he submits that the applicants have no criminal antecedents.
- 6) Heard learned counsel for the parties.
- 7) Considering the facts and circumstances of the case, the nature of allegation against the present applicants, in particular the detention period of the applicants, offence is triable by Magistrate and the fact that the applicants have no criminal antecedents and there is no apprehension of the applicants tampering with the evidence or absconding as admitted by both the Counsel and that conclusion of trial may take some time due to COVID-19 Pandemic, the application is **allowed**. It is directed that in the event **each** of the applicants executing a personal **bond** for a sum of **Rs. 1,00,000/-** with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail on the following conditions:-
 - i. they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
 - ii. they shall not act in any manner which will be prejudicial to

fair and expeditious trial, and

- iii. they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- iv. they shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority.
- v. they shall not involve themselves in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant