

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6884 of 2020**

1. Surendra Giri, S/o Mahaviri Giri, aged about 45 years, Caste - Gosai, R/o Village- Patakela (Tongripara), Police Station - Bagicha, District - Jashpur (CG)
2. Santosh Goswami, S/o Jairam, aged about 2 years Caste- Gosai, R/o Village - Patakela (Tongripara), Police Station - Bagicha, District- Jashpur (CG)

---- Applicants**Versus**

- State of Chhattisgarh, through Officer-In-Charge, Police Station- Bagicha, District- Jashpur (CG).

....Non-applicant

For Applicants	:	Mr. Sanjeev Sahu, Advocate
For Non-applicant	:	Mr. S.Dubey, Dy. Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****04.01.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicants, who are in custody since 10.9.2020 in connection with Crime No.121/2020 registered at Police Station Bagicha, District Jashpur (CG) for commission of offence punishable under Sections 420, 508, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that after death of about two years old son of complainant, present applicants along with co-accused Dhol Lal approached complainant on 6.9.2020 and put him under fear saying that if he will not perform *pooja*, he will also die. On 8.9.2020 they asked him to give them Rs.60,000/- and other articles. On the basis of demand made by accused persons, complainant went to

Khudiyarani Temple along with Rs.60,000/-, two brass pots (लोटा) & one goat and handed over the same to accused persons. After receiving money and articles, accused persons asked for Rs.40,000/- more, which created doubt in the mind of complainant, he lodged complaint in concerned police station based on which offence in question has been registered against present applicants.

3. Mr. Sanjeev Sahu, learned counsel for applicants submits that except oral allegations made by complainant, there is no material to show that complainant has given Rs.60,000/- to present applicants or other co-accused persons. He further submits that applicants are innocent, they have been falsely implicated in the offence in question and they have not committed any offence. He further submits that as per allegations levelled against present applicants, offence under Section 508 of IPC is only attracted against them. Applicants are in jail since 10.9.2020, they have no criminal past, case is triable by Magistrate, hence applicants may be granted benefit under Section 439 of CrPC.
4. Mr. Siddharth Dubey, learned State Counsel opposes submissions made by learned counsel for applicants and submits that Rs.12,000/- & one pot (लोटा) was seized from possession of applicant No.1 and Rs.8,000/- & one pot (लोटा) was seized from possession of applicant No.2, which shows their involvement in crime in question. He submits that in view of material available against applicants in case diary, they are

not entitled for benefit under Section 439 of CrPC.

5. I have heard learned counsel for the parties.
6. Considering the entirety of facts and circumstances of case, nature of allegations levelled against present applicants, pre-trial detention of applicants and the fact that they are not having any criminal antecedent, without commenting anything on merits of case, I am inclined to release applicants on regular bail.
7. Accordingly, the application is allowed and it is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.10,000/- 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 concerned regularly on each and every date unless exempted from appearance.
 - b) They shall not, in any manner, tamper with the prosecution witnesses.
 - c) If applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.
8. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-