

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8044 of 2020**

- Vishwnath Manjhi @ Vishwa @ Kalu S/o Mankuwar Manjhi, Aged About 19 Years Caste Turee, R/o Aasanbeda, Khmaan Toli, Police Station Thethetangar, District Simdega, Gumla (Jharkhand)

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Jashpur, District Jashpur Chhattisgarh

---- Respondent

&**MCRC No. 8723 of 2020**

- Yakub Khan S/o Mahboob Khan Aged About 35 Years Caste- Musalman, R/o Village- Tangartoli, Chowki- Lodam, Police Station- Jashpur, Tahsil And District- Jashpur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Chowki Lodam, Police Station Jashpur, District- Jashpur, Chhattisgarh

---- Respondent

For respective Applicants : Shri Soumitra Kesharwani, Shri Sanjeev Kumar Sahu and Shri Prabhakar Tiwari, Advocates

For State : Shri Mateen Siddiqui, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****11/02/2021**

Heard.

The aforesaid bail applications are being disposed off by this common order as they arise out of the same crime number.

1. The applicants have been arrested in connection with Crime No.145/2019 registered at Police Station – Jashpur, District – Jashpur (C.G.) for alleged commission of offences under Section 395, 397, 365, 323, 506, 120-B of IPC and Section 25 and 27 of Arms Act.

2. Prosecution case is that the applicants and co-accused abducted the victim Saddam Hussain and looted him.

3. Learned counsel for the applicants would submit that the applicants are involved in alleged commission of offence only on suspicion without there being any material evidence collected against them. It is argued that though initially, prosecution came out with an evidence of identification of applicant – Vishwanath Manjhi by victim – Saddam Hussain, as Saddam Hussain has now been examined in the Court as prosecution witness, in his evidence, he has not identified any one and has categorically stated that through out all the incident of abduction and loot, either his eyes were closed or face of the accused were closed. Therefore, he is not in a position to identify any of the accused. It is further submitted that the so far recovery of *katta* from applicant - Yakub Khan does not connect with the alleged commission of offence because the victim has not stated that either he was kept on gun point or any gun shot was fired. It is submitted that in any case, recovery of alleged *katta* is highly doubtful because the independent seizure witness has not supported the case of the prosecution and turned hostile.

As far as applicant – Yakub Khan is concerned, cash of Rs.4,000/- is alleged to have been seized from him which does not connect with the alleged incident as material witnesses of the prosecution, including the victim has already been examined and there being no material of identification or recovery from the present applicant, both the applicants may be granted bail as their cases are at par with the case of co-accused Salman Ansari and Vikky Kumar Singh, who have been granted bail vide order dated 11/08/2020 in MCrC No.1371/2020.

4. On the other hand, learned State counsel opposes bail application and submits that the applicants have been tried for commission of grave offence of dacoity. At this stage, though some of the witnesses are examined, many other witnesses are yet to be examined. Therefore, the application may be rejected.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the submission that the applicants have not been identified by the abducted victim in the Court and the victim has stated that there was no occasion for him to identify anybody as either their faces were covered or his eyes were

covered through out and further taking into consideration that recovery of *katta* and money from the accused are said to be doubtful, without commenting upon the merits of the case, I am inclined to grant bail to the applicants.

6. Accordingly, the application is allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the Trial Court on the condition that -

- a) They shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) They shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge