

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7992 of 2020**

- Vikas Pradhan S/o Shri Nand Lal Pradhan Aged About 29 Years R/o Village Barbaspur Tahsil And PS- Basna District Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Pithaura, Distt. Mahasamund, Chhattisgarh

---- Respondent

MCRC No. 9091 of 2020

- Umesh Bohra S/o Perdeshi Bohra Aged About 23 Years Occupation Business, R/o Village Banipali, Thana And Tahsil- Basna, District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station Pithora, District : Mahasamund, Chhattisgarh

---- Respondent

MCRC No. 9138 of 2020

- Prakash Yadav S/o Shantilal Yadav Aged About 28 Years R/o Sabji Mandi Para Saraipali, Police Station - Saraipali, District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Pithora, District : Mahasamund, Chhattisgarh

---- Respondent

For Respective Applicants :	Mr. Deepak Jain, Advocate and Mr. Pawan Kesharwani, Advocate.
For State :	Mr. Praveen Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****29/01/2021**

Heard.

1. These applications are being decided by this common order as they arise out of the same crime number. The applicants have moved this application for grant of bail as they are arrested in connection with Crime No.266/2020 registered at Police Station- Pithaura, District- Mahasamund, C.G. for the

alleged commission of offence under Sections 398, 457 & 34 of IPC and Section 25 of Arms Act.

2. Prosecution case is that the applicants and co-accused entered the house of the victim and an attempt was made to commit dacoity. It is also alleged that one of the accused is holding revolver in his hand.
3. Learned counsel for the applicants would submit that the applicants are involved in the alleged commission of offence only on the basis of memorandum statement of the co-accused, which is not admissible in evidence and except that there is neither any identification nor any recovery nor any other material to prima facie make out a case of applicants- Vikas Pradhan, Umesh Bohra and Prakash Yadav involved in the alleged commission of offence. It is further submitted that though test identification parade was conducted and applicants were put to identification, none of the victims or their family members have identified them. A recovery of revolver has taken place from another co-accused.
4. On the other hand, learned State Counsel opposes and submits that in the incident of dacoity in the house of the victim, three accused has entered the house, out of which, one holding revolver in his hand. He would submit that though nothing was looted, one of the co-accused was arrested from the spot who was hiding nearby and on his memorandum, other accused were also arrested though present applicants did not accompany the other accused to the house of the complainant-victim they are members of the conspiracy hatched by all the accused to commit dacoity in the house of the victim.
5. On prima facie consideration, it is found that as far as applicants- Vikas Pradhan, Umesh Bohra and Prakash Yadav are concerned, except that they being named in the memorandum of the co-accused, prosecution has not come out with any evidence of their involvement. They were put to test identification parade but they have not been identified by the victims. Secondly, the revolver has also been seized from other co-accused and not from the present applicants. There was no other material to disclose so as to prima facie involve the applicants except that they are said to be involved on the basis of memorandum statement of the one of the co-accused. There is considerable force in the submission of learned counsel for the applicants that name being named in the memorandum statement by itself is not an admissible piece of evidence but it only leads to discovery of facts to incriminate and involve in the commission of offence. This Court is therefore

inclined to allow the bail applications of the present applicants particularly when investigation is complete and charge sheet has been also been filed and that the applicants are in jail since 23.10.2020 and 25.10.2020.

6. Accordingly, the bail application of **Vikas Pradhan, Umesh Bohra and Prakash Yadav** 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.50,000/- along with one local surety of 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 in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

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