

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7426 of 2021**

Mohd. Kaif Mansuri S/o Mohd. Ishtkhar, Aged About 18 Years, occupation student, R/o Masum Gali, Tikarkala, Gaurela, Tahsil Pendra, District Gaurela Pendra Marwahi (C.G.).

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police of Police Station Pendra, District Gaurela Pendra Marwahi (C.G.).

---- Non-applicant**MCRC No. 7621 of 2021**

Afsar S/o Salim Khan, Aged About 20 Years, Caste Behna, R/o Village Tikarkala, Tahsil Pendra, District Gaurela Pendra Marwahi Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer, Police of Police Station Pendra, District Gaurela Pendra Marwahi Chhattisgarh.

---- Non-applicant

 For Applicants : Mr. Achyut Tiwari, Advocate
 For Non-applicant/State : Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****15.12.2021**

1. Since both the applications arise out of same crime number, they are being heard and decided by the common order.
2. The applicants have preferred these First Bail Application under Section 439 of Code of Criminal Procedure, 1973 for grant of regular bail as they were arrested in connection with Crime No. 217 of 2021, registered at Police Station Pendra, District Gaurela Pendra Marwahi (C.G.) for the offence punishable under Section 392 r/w 34 of Indian Penal Code.

3. Case of prosecution is that, on 26.08.2021, complainant Rajkumari was going to Ansh Electronics, run by her husband, she was holding one mobile phone of Vivo Company on his right hand, when she reached near Kanchan Electronics, at that relevant time, two unknown persons came on motorcycle bearing No.CG-10/AY/8407, snatched her mobile phone and ran away. Incident was reported the concerned police station, based upon which, crime was registered against unknown persons. During course of investigation, applicants were arrested. Mobile phone and motorcycle details of which are mentioned in First Information Report was seized from possession of applicant Mohd. Kaif Mansuri and applicant Afsar, respectively.
4. Mr. Achyut Tiwari, learned counsel for the applicants would submit that applicants are of tender age of 18 years and 20 years, respectively. They are first offenders. They are in jail since 28.08.2021 and 14.09.2021, respectively. Except instant crime, one another crime alleged to have been committed by applicants on same day i.e. 26.08.2021, at about 11.40 A.M., which is registered as crime No.216/21, there are no other criminal antecedents against the applicants, hence, they may be enlarged on bail.
5. On the other hand, Ms. Smriti Shrivastava, learned P.L. for the State opposing the submissions of learned counsel for the applicants would submit that in First Informant Report, complainant has mentioned EMI number of her mobile phone as also number of motorcycle, on which, two unknown persons came and committed crime. Mobile phone as reported was seized from the possession of applicant Mohd. Kaif Mansuri and motorcycle

mentioned in First Information Report was recovered from possession of applicant Afsar, hence, there is prima facie involvement of both the applicants in commission of crime and they are not entitled for bail.

6. However, upon asking with regard to criminal antecedents against these applicants, learned State counsel submits that one another crime bearing No.216 of 2021 committed by them on the same day i.e. 26.08.2021 is registered. There is no mention of other crime against them in case diary.
7. I have heard learned counsel for the parties.
8. Taking into consideration facts and circumstances of the case, nature of allegations, age of applicants, apart from offence committed by them on 26.08.2021, there is no mention of other previous criminal record and offence to be triable by Magistrate, without commenting anything on merits of the case, I am inclined to release the applicants on regular bail.
9. Accordingly, the applications (MCRC Nos. 7426 of 2021 and 7621 of 2021) are allowed and it is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) 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 the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh