

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 7616 of 2021

1. Shekh Kabir S/o Shekh Nasir, Aged About 19 Years.
 2. Mohammad Aalam S/o Mohammad Hasiyat, Aged About 20 Years.
- Both are R/o Idgah Bhatha, Near Idgah, P. S. Aazad Chowk, Raipur, Tahsil and District -Raipur, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh Through Station House Officer, Police Station -Purani Basti, District Raipur, Chhattisgarh.

--- Respondent

For Applicants	: Mr. SP Sahu, Advocate.
For State	: Mr. Anil Tripathi, PL.

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

21/12/2021

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to applicants, who have been arrested in connection with Crime No.217/2021, registered at PS -Purani Basti, District Raipur, (C.G.), for commission of offence punishable under Sections 457, 308, 34 of IPC. (Section 380 of IPC mentioned in impugned order).
2. Case of prosecution is that on 24.08.2021 complainant (Santosh Dewangan) lodged report to concerned Police Station mentioning therein that from 22.08.2021 (Evening) to 24.08.2021 (morning) at about 10:15 some unknown persons committed theft of clothes and Rs.700/- from his shop. Based on report, aforementioned crime was registered initially against unknown persons. During course of investigation, 34 pants and shirts was seized from applicant No.1 and 6 pants and shirts was seized from applicant No.2. Based on seizure, applicants alongwith one another (child in conflict with law) were arrested on 25.08.2021.
3. Learned counsel for applicants submits that applicants have been falsely implicated in crime. Clothes alleged to have been seized from applicants were not put to identification, hence, it cannot be said that clothes recovered from applicants are the clothes stolen from shop of complainant. Applicants are of tender age, 19 and 20 years. There is no other criminal antecedents against applicants. Applicants are in jail since 25.08.2021, hence, they may be released

on regular bail.

4. Learned State Counsel opposes the submissions of learned counsel for applicants and submits that during course of investigation, police seized 34 pants and shirts from applicant No.1 and 6 pant and shirts from applicant No.2. Hence, they are not entitled for grant of bail. However on putting specific query to State Counsel as to identification of clothes seized from applicants and criminal antecedent of against applicants, he submits that no proceeding of identification of seized articles is available in case diary. Further there is no mention of any previous antecedent against applicants in case diary.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of case, nature of allegations, submission of learned counsel for parties that there is no previous antecedent against applicants, age of applicants to be 19 and 20 years of age, period of pre-trial detention of applicants since 25.08.2021, offence to be triable by Magistrate, without commenting anything on merits of the case, I am inclined to allow this application.
7. Accordingly, bail application is allowed. It is directed that applicants shall be released on regular bail, on their furnishing a bail bond in sum of **Rs.25,000/-** each with one surety in like sum to satisfaction of concerned Court on the conditions that-
 - a) Applicants shall appear before Trial Court regularly on each and every date, unless exempted from appearance.
 - b) They shall not, in any manner, tamper with the prosecution witnesses.
 - c) If they are found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-