

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 635 of 2021

1. Saket Soni @ Lulu Soni S/o Shri Rampyare Sao, Aged About 30 Years, R/o Nawhatta, Police Station Navhatta, District Rohtas, (Bihar).

----Applicant

Versus

1. The State Of Chhattisgarh, Through The Station House Officer, Police Of Police Station Ambikapur, District Surguja (Ambikapur) (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Neeraj Mehta, Advocate.
For Non-Applicant/State	:	Mr. Adil Minhaj, Govt. Advocate.

MCRC No. 966 of 2021

1. Virendra Prasad Swarnakar S/o Late Ram Prasad Swarnakar, Aged About 45 Years, R/o Village Manpur Gandhinagar, Police Station Mohafbil, District Gaya (Bihar).

----Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station Ambikapur, District Surguja (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Nishi Kant Sinha, Advocate.
For Non-Applicant/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Order On Board

14/06/2021

- 1) The matter is heard through Video Conferencing.
- 2) Since both the applications arise out of the same crime number, they are being disposed of by this common order.
- 3) **In MCRC No. 635/2021 (Saket Soni @ Lulu Soni)**: This is the

Third Bail Application filed under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. The **First Bail Application** i.e. MCRC 469/2019 was dismissed as withdrawn on 16/05/2019 and the Second Bail Application i.e. MCRC No. 6527/2019 was also rejected on merits on 19/11/2019.

- 4) The applicant (Saket Soni @ Lulu Soni) is arrested on 17/09/2018 in connection with Crime No. 07/2017 registered at Police Station Ambikapur, District Surguja (C.G.) for the offence under Section 395, 397 & 412 of IPC and under Section 25 & 27 of Arms Act.
- 5) **In MCRC No. 966/2021 (Virendra Prasad Swarnakar)**: This is the **Fourth Bail Application** filed under Section 439 of Code of Criminal Procedure, 1973 for grant of bail. The **First Bail Application** i.e. MCRC 5680/2018 was rejected on merits on 30/08/2018, the Second Bail Application i.e. MCRC No. 2804/2019 was rejected on merits on 13/05/2019 and the Third Bail Application i.e. MCRC No. 6317/2019 was also rejected on merits on 19/11/2019
- 6) The applicant (Virendra Prasad Swarnakar) is arrested on 19/04/2018 in connection with Crime No. 07/2017 registered at Police Station Ambikapur, District Surguja (C.G.) for the offence under Section 395, 397, 412, 120B & 201 of IPC and under Section 25 & 27 of Arms Act.
- 7) Case of the prosecution, in brief, is that on 04/01/2017 dacoity was committed in Manappuram gold Loan Branch, Bramha Road, Ambikapur and 12 KG gold worth Rs. 2,50,00,000/- and cash of Rs. 1,54,000/- were looted by the accused persons. The applicants herein purchased some of the looted gold knowing well that it is the looted property. After purchase of the above gold, the same was converted in ornaments and kept in their shop for sale.
- 8) Learned counsel for the applicants in all the applications submit that the applicants are innocent persons and have been falsely implicated in this case. The applicants are in jail and charge sheet has already been filed. There are as many as 42 witnesses and till

date only 13 witnesses have been examined and conclusion of trial is likely to take some time due to Covid-19 Pandemic. They submit that applicants have no criminal antecedents. Therefore, the applicants deserve to be released on bail.

- 9) On the other hand, learned counsel for the respondent/State opposes the bail applications. He submits that the applicants have no criminal antecedents.
- 10) Heard learned counsel for the parties.
- 11) Considering the change in facts and circumstances of the case, as applicant Virendra Prasad Swarnakar has been charged under Section 412 & 414 of IPC whereas the applicant Saket Soni @ Lulu Soni has been charged under Section 412 of IPC, the pre-trial detention of the applicants as they are in jail since 17/09/2018 & 19/04/2018 respectively, charge sheet has already been filed, there is no progress in trial as out of 42 witnesses only 13 witnesses have been examined so far, the fact that the applicants have no criminal antecedents and there is no apprehension of the applicants tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial may take some time due to COVID-19 Pandemic, the applications are **allowed**. It is directed that in the event of **each** of the applicants executing a personal **bond** for a sum of **Rs. 4,00,000/-** with two sureties of Rs. 2,00,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail on the following conditions:-
 - i. they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
 - ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial,
 - iii. they shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,

- iv. they shall not involve themselves in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant