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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.8041 of 2021**

- Anand Kumar aged about 23 years, S/o Maheshram Binjhar, R/o Village Dhapdhap, PS Bankimongra, District Korba (CG)
---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Bankimongra, District Korba (CG)

....Non-applicant

MCRC No.8179 of 2021

1. Tripal Singh Binjhar, S/o Fulsingh Binjhar, aged about 22 years.
2. Vimal Kumar Binjhar, S/o Tikaitram Binjhar, aged about 20 years.
3. Jaipal Singh Binjhar, S/o Fulsingh Binjhar, aged about 28 years.
4. Nohar Singh Binjhar, S/o Kumhar Singh Binjhar, aged about 25 years.
5. Ram Pal Kanwar, S/o Karan Pal Kanwar, aged about 19 years.
6. Sanjay Kumar Kanwar, S/o Hori Singh Kanwar, aged about 23 years.

All are R/o Dhapdhap, Thana Banki Mongra, Tahsil Katghora, Distt. Korba (CG)

---- Applicants (In Jail)

Versus

- The State of Chhattisgarh, through Station House Officer, Police Station Banki Mongra, District Korba (CG)

....Non-applicant

MCRC No.8182 of 2021

1. Omprakash Binjhar S/o Samar Singh Binjhar aged about 18 years (CG)
2. Ajay Kumar Kanwar, S/o Chhattarpal Kanwar, aged about 20 years.
3. Dilbandhu Binjhar, S/o sukhsay Binjhar, aged about 27 years.

All are R/o Dhapdhap, Thana Banki Mongra, Distt. Korba (CG)

---- Applicants (In Jail)

Versus

- State of Chhattisgarh, through Police Station Banki Mongra, District Korba (CG)

....Non-applicant

MCRC No.8560 of 2021

- Ajay Kumar, S/o Sumar Singh, Caste Binjhar, aged about 22 years, R/o Village Dhapdhap, PS Banki Mongra, District Korba (CG)

---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Police Station Banki Mongra, District Korba (CG)

....Non-applicant

MCRC No.8430 of 2021

- Santosh Kumar aged about 21 years, S/o Indrapal Singh, Caste Binjhar, resident of Village Dhaphap, PS Bankimongra, Tahsil Katghora, District Korba (CG)
---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Bankimongra, District Korba (CG)
....Non-applicant

MCRC No.8098 of 2021

- Chandrabhan, son of Amir Singh, aged about 34 years, Caste Gond resident of Village Nawapara, Dhanwaipur, PS & Tahsil Katghora, District Korba (CG)
---- Applicant (In Jail)

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Bankimongra, District Korba (CG)
....Non-applicant

MCRC No.8041/21

For Applicant : Mr. Ranjeet Khare, Advocate
For Non-applicant : Ms. Smriti Shrivastava, Panel Lawyer

MCRC No.8179/21, 8182/21

For Applicants : Mr. Samir Singh, Advocate
For Non-applicant : Ms. Smriti Shrivastava, Panel Lawyer

MCRC No.8560/21

For Applicant : Mr. Vivek Mishra, Advocate
For Non-applicant : Ms. Smriti Shrivastava, Panel Lawyer.

MCRC No.8430/21 & 8098/21

For Applicants : Mr. A.D. Kuldeep, Advocate
For Non-applicant : Ms. Smriti Shrivastava, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu**21.12.2021**

1. As above applications for grant of regular bail arise out of same crime number, they are being heard together and disposed of by this common order.
2. These are first applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicants, who are in custody since 22.8.2021, 3.9.2021 & 6.9.2021 respectively, in connection with Crime No.145/2021 registered at Police Station Bankimongra, District Korba (CG) for commission of offence punishable under Sections 395 & 450 of the Indian Penal Code.

3. Case of prosecution, in brief, is that complainant on 20.8.2021 Sunil Kumar was on patrolling duty at underground mine, Sub-Station Singhali. At about 00:30 hrs in night about 8-10 persons with covered faces and armed with club, hexa blade etc. came near to him, surrounded vehicle on which he was doing patrolling, they threatened him and thereafter one of accused persons broke open lock of room of sub-station by means of rod, took away 170 meter copper cable wire kept therein. Accused persons also snatched key of patrolling vehicle from complainant, loaded wire in it and ran away from spot. Another guard on duty informed about incident to superior officer, who, in turn, intimated police. Police reached place of incident and seeing police, accused persons fled from spot leaving patrolling vehicle. FIR was registered against unknown persons. During course of investigation, on suspicion applicant Omprakash was interrogated and during interrogation, he admitted to have committed dacoity and also disclosed names of other applicants. Consequently, other applicants were also arrested.
4. Mr. Samir Singh, Mr. Vivek Mishra, Mr. A.D. Kuldeep, learned counsel for respective applicants would submit that applicants have been falsely implicated in crime in question. As per allegation, all accused persons have covered their faces; complainant or any other person neither identified applicants nor mentioned their names in FIR. Charge sheet has been filed after completion of investigation, but no test identification parade was conducted by police to identify accused persons. Only on the basis of memorandum statement of applicant Omprakash, which cannot be said to be admissible piece of evidence, applicant

Omprakash and other applicants have been made accused. There is no other criminal antecedent against applicants, they are in jail since 22.8.2021, 3.9.2021 & 6.9.2021, hence they may be enlarged on regular bail.

5. Per contra, Ms. Smriti Shrivastava, learned Panel Lawyer for the State opposes submissions of learned counsel for respective applicants and submits that applicants have committed serious nature of crime. They entered into sub-station of SECL and after breaking open lock of room committed dacoity of 170 meter copper wire. If police had not arrived on spot, applicants would have taken Bolero vehicle and copper wire loaded in it. She submits that 100 meter copper cable wire is seized from possession of applicant Omprakash, hence there is *prima facie* involvement of applicants in commission of instant crime. Upon asking, learned Panel Lawyer submits that no proceeding of Test Identification Parade is available in case diary. Upon further asking, she submits that there is no mention of any other criminal antecedents against applicants.
6. I have heard learned counsel for parties.
7. Taking into consideration facts and circumstances of case, nature of allegations, as per allegations at the time of incident all accused persons have covered their faces, no test identification parade was conducted by prosecution, applicants are in jail since 22.8.2021, 3.9.2021 & 6.9.2021; submission of learned counsel for parties that there is no any other criminal antecedents against applicants, without commenting anything on merits of case, I am inclined to allow these bail applications.
8. Accordingly, above applications are allowed and it is directed that

applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- 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 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

roshan/-