

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 7531 of 2021

Naeem Baksh S/o Hussain Baksh Aged About 28 Years R/o Kelabadi
District Durg Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate, Rajnandgaon
District Rajnandgaon Chhattisgarh

---- Respondent

MCRC No. 9651 of 2021

Supreet Sarthi S/o Ajit Sarthi Aged About 31 Years R/o Village Ward
No. 17, Dau Choura, Khairagarh, P.S. And Tahsil Khairagarh, Dist.
Rajnandgaon, C.G.

---- Applicant

Versus

State Of Chhattisgarh Through The Police Station- Khairagarh, Dist.-
Rajnandgaon, C.G.

---- Respondent

For Respective Applicants : Shri Praveen Dhurandhar and
Shri Abhishek Pandey, Advocates

For Non-applicant : Shri Sudhir Sahu, Panel Lawyer

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

16/12/2021

1. Applicants have filed these applications under Section 439 of

Cr.P.C. for grant of regular bail as they have been arrested in connection with Crime No.247/2021 registered at Police Station -Khairagarh, District- Rajnandgaon (CG) for the offence punishable under Sections 457, 380, 34 of IPC.

2. Case of prosecution is that report was lodged by one Mahesh Jain on 12.7.2021 stating therein that in the intervening night of 8.7.2021 and 9.7.2021, some persons have broke open the lock of godown and theft one Akai 32 inches LED TV and cash of Rs.5,000/- kept in almirah. Based on report, FIR was registered against unknown person. During course of investigation, police seized TV from possession of applicant Supreet Sarthi and he was arrested on 13.7.2021. Applicant- Naeem Baksh was also arrested in the aforementioned crime on 13.7.2021.
3. Shri Praveen Dhurandhar, learned counsel for applicant- Naeem Baksh would submit that applicant has been falsely implicated in the crime. There is no seizure of any article or cash from the possession of applicant. Applicant was interrogated by police. Based on suspicion, he has been made accused in three other crimes registered in the same police station. In six cases registered against applicant of similar nature in the year 2019, he was acquitted in all six. Hence, applicant may be enlarged on bail.
4. Shri Abhishek Pandey, learned counsel for applicant Supreet Sarthi would submit that the TV alleged to have been theft from

godown has been stated to be 32 inches but the seizure shown from the applicant is of 21 inches TV as mentioned in seizure memo. Hence, the article alleged to have been seized is not the one as stated to have been theft from the godown of complainant. He also pointed out that the CCTV footage of the commission of crime was also seized by the police in which one person is appearing with covered face but there is no test identification parade conducted by the police. Offences are triable by Magistrate. Applicant is in jail since 13.7.2021, hence, he may be enlarged on regular bail.

5. Shri Sudhir Sahu, learned counsel for the State opposes the submissions of learned counsel for the applicants and would submit that against applicant- Naeem there are eight previous cases, out of which, six are of 2019 and two cases of 2021. Hence, he is the habitual offender. Against Supreet also, there is two similar nature of crime registered in the year 2021. Hence, he is also the habitual offender. There is seizure of TV from possession of applicant Supreet. Upon asking to learned counsel for the State as to the model of TV which is stated to have been theft from godown, after going through the diary, he submits that complaint of theft is 32 inch Akai TV whereas as per seizure, TV is mentioned as Akai 21 inches. He also submits that in the crime of year 2021, applicant has been arrested on same day i.e. 13.7.2021 in other two crimes.

6. I have heard learned counsel for the parties.
7. As considered in earlier MCRC No.7527 of 2021, applicant Naeem has placed on record order of acquittal in all six of the criminal cases registered against him in the year 2019.
8. Taking into consideration the facts and circumstances of the case, nature of allegations, period of detention, the offence to be triable by Magistrate and submissions of learned counsel for respective parties, I am inclined to allow the bail applications.
9. Accordingly, both the bail applications are allowed. It is directed that the applicants shall be released on regular bail upon each of them furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the Court on the conditions that:-
 - a) Applicants shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
 - b) Applicants shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicants 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