

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.743 of 2022**

- Shubham Nandeshwar, aged about 23 years, S/o Anil Nandeshwar, By Caste Mahar, R/o Kumhari, Thana Kumhari, Tahsil Dhamdha, Distt. Durg (CG)

---- Applicant (In Jail)

Versus

- The State of Chhattisgarh, through District Magistrate, Distt. Rajnandgaon (CG)

....Non-applicant

MCRC No.2135 of 2022

- Pawan Sonkar, S/o Shri Vijay Sonkar, aged 25 year, R/o Ward No.9, Shiv Nagar, Kumhari, P.S. Kumhari, Distt. Durg, Civil & Revenue Distt. Durg (CG)

---- Applicant (In Jail)

Versus

- The State of Chhattisgarh, through Police Station Dongargarh, Distt. Rajnandgaon (CG)

....Non-applicant

MCRC No.1434 of 2022

- Rakesh Yadav @ Bunt, S/o Ramji Yadav, aged about 19 years, R/o Shanti Nagar Ward No.8, Kumhari, Thana Kumhari, District Durg (CG)

---- Applicant (In Jail)

Versus

- The State of Chhattisgarh, through Police Station Dongargarh, Distt. Rajnandgaon (CG)

....Non-applicant

M.Cr.C. No.743/2022

For Applicant : Mr. Parag Kotecha & Mrs. Bhavika Kotecha, Advocates

For Non-applicant : Mr. Akash Pandey, Panel Lawyer

M.Cr.C. No.2135/2022

For Applicant : Mr. Ajay Mishra, Advocate

For Non-applicant : Mr. Akash Pandey, Panel Lawyer

M.Cr.C. No.1434/2022

For Applicant : Mr. Vijay Kumar Sahu, Advocate

For Non-applicant : Mr. Akash Pandey, Panel Lawyer

Hon'ble Mr. Justice Parth Prateem Sahu**Order on Board****31.3.2022**

1. As above three bail applications arise out of same crime number, they are being heard together and decided by this common order.

2. These are first applications on behalf of applicants under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail as applicants in M.Cr.C. No.1434/2022 & 743/2022 are in custody since 20.10.2021, whereas applicant in M.Cr.C. No.2135/2022 from 30.10.2021, in connection with Crime No.596/2021 registered at Police Station Dongargarh, District Dongargarh (CG) for commission of offence punishable under Sections 395, 397, 450, 342 of the Indian Penal Code; Section 25 & 27 of the Arms Act and Section 3 of Lok Sampatti Niwaran Adhiniyam.
3. Case of prosecution in brief is that in night intervening 15th & 16 October 2021, complainant Ajay Jagbandhu and two other security personnel namely Devishankar & Maksudan were on guard duty at country liquor shop situated in village Katli Belgaon. At about 2:30 a.m. in midnight, 5-6 unknown persons armed with iron rod, sword & club came at liquor shop, under the threat of life to security personnel entered into liquor shop, tried to break open iron chests kept in shop and when they could not succeed, they took away two iron chests with them in their car. Accused persons also damaged liquor bottles and other articles kept in shop; snatched mobile phone from Devishankar and cash from Ajay Jagbandhu. In morning incident was reported in concerned police station based upon which aforementioned crime is registered against unknown persons. During investigation, police interrogated applicants Shubham Nandeshwar, based on memorandum statement of Shubham Nandeshwar, one iron chest looted from liquor shop

was recovered from brook (नाला) near Ramatola and applicant Rakesh Yadav was arrested. Applicant Shubham Nandeshwar & Rakesh Yadav @ Bunty were arrested on 20.10.2021. Applicant Pawan Sonkar has been arrested on 30.10.2021 and based on his memorandum statement, one Oppo A5 mobile was recovered from bushes.

4. Learned counsel for applicants would submit that applicants have not committed any offence as alleged against them and they have been falsely implicated. No test identification parade is conducted by police after arrest of applicants. Recovery of articles i.e. iron chest and mobile phone, are from open place and for which applicants cannot be implicated in commission of aforementioned crime.
5. Mr. Vijay Sahu, learned counsel for applicant-Rakesh Yadav @ Bunty in M.Cr.C. No.1434/2022 submits that there is no seizure of any incriminating article from possession of this applicant and he has been made accused on the basis of memorandum statement of co-accused.
6. On the other hand, Mr. Akash Pandey, learned counsel for the State opposes submissions of learned counsel for applicants and submits that during course of investigation, applicant Shubham Nandeshwar & Pawan Sonkar were interrogated; at the instance of applicant Shubham, one iron chest was seized from brook situated near village Ramtola and at the instance of applicant Pawan, Oppoo A5 mobile phone of Devishankar is seized from bushes. He submits that seizure of

aforementioned articles at the instance of afore named applicants shows their involvement in commission of crime in question. He further submits that applicant Shubham Nandeshwar in his memorandum statement disclosed name of other accused persons involved in commission of crime and applicant Rakesh Yadav is one of them. Hence, all three applicants are not entitled to be enlarged on regular bail. However, he does not dispute submission of learned counsel for applicant Rakesh Yadav that police did not conduct test identification parade and nothing has been seized from possession of this applicant.

7. I have heard learned counsel for the parties.
8. Taking into consideration facts and circumstances of case, nature of allegations; seizure of iron chest of liquor shop from brook at the instance of applicant Shubham Nandewshwar and seizure of mobile phone snatched from Devishankar at the instance of applicant Pawan Sonkar from bushes, I do not find case of these applicants to be fit for grant of regular bail. Accordingly, M.Cr.C. Nos.743/2022 & 2135/2022 filed on behalf of applicant Shubham Nandeshwar and Pawan Sonkar are rejected.
9. However, considering the fact that applicant Rakesh Yadav @ Bunt has been made accused in instant crime based on memorandum statement of co-accused Shubham Nandeshwar; nothing has been seized from his possession or at his instance, period of pre-trial detention i.e. from 20.10.2021; without commenting anything on merits of case, I

am inclined to grant regular bail to applicant Rakesh Yadav @
Bunty Yadav.

10. Accordingly, bail application (M.Cr.C. No.1434/2022) is allowed and it is directed that **applicant Rakesh Yadav @ Bunty** shall be released on bail on hi furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to satisfaction of trial Court concerned on the conditions that;
- a) he shall appear before the trial Court concerned regularly on each & every date unless exempted from appearance.
 - b) he shall not, in any manner, tamper with the prosecution witnesses.
 - c) If he is 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/-