
(2018) 12 CHH CK 0007

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous CaseNo. 8541 of 2018

Vasudev Urf Vasu S/o Paritosh Urf Parimal Banik and Ors

APPELLANT

Vs

State of Chhattisgarh

RESPONDENT

Date of Decision : 03-12-2018

Acts Referred:

Code of Criminal Procedure, 1973 — Section 439
Indian Penal Code, 1860 — Section 323, 396, 412

Citation : (2018) 12 CHH CK 0007

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Raza Ali, Chandresh Shrivastava

Final Decision : Allowed

Judgement

1. The applicants has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No. 15/2017 registered at Police Station Dhanora, Kondagaon (C.G.) for the offence punishable under Sections 396, 412 & 323 of IPC.

2. Present is the third bail application.

3. The earlier two bail applications stood rejected by this Court on 07/03/2018 & 26/06/2018.

4. The applicants are in jail since 02/08/2017.

5. The case of the prosecution against the present applicants is that, the present applicants in connivance with the other accused person is said to have committed dacoity in the farm-house of the complainant and is said to have looted an amount of Rs.95,000/-.

6. During the course of investigation, the main accused - Jitu Dhali - the driver of the complainant's son-in-law was arrested and on the basis of the memorandum statement of the said accused, the present applicants have also been arrested.

7. It is alleged that from the possession of each of the applicants, an amount of Rs.75,000/-, Rs.65,000/-, Rs.55,000/- and Rs.45,000/- was seized.

8. The counsel for the applicant submits that, except for the seizure of the aforesaid amount from the custody of the present applicants, there is no other substantial cogent material collected by the prosecution to implicate the present applicants in the said offence. He further submits that, the only material which primarily has been collected by the prosecution was the memorandum statement of the co-accused person. He further submits that, on an identical set of facts, the co-accused person namely Prasannajeet Malakar has been released on bail by this Court on 08/10/2018 and thus prayed for the applicants also to be release on bail on the ground of parity.

9. The State counsel on perusal of the record does not dispute the fact that, the case of the applicants is identical to the case of Prasannajeet Malakar.

10. Given the aforesaid facts and circumstances of the case, particularly taking into consideration the period of custody undergone and also the nature of materials collected and the statement of the complainant particularly in respect of the identification so also considering the bail granted to the co-accused - Prasannajeet Malakar, this Court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicants.

11. Accordingly, the application for grant of bail is allowed. It is ordered that the applicants shall be released on bail on their executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicants shall thereafter appear before the Trial Court on each and every date given by the said court.