

The High Court Of Madhya Pradesh

MCRC-45018-2018

(MOHD. NISHAD Vs THE STATE OF MADHYA PRADESH)

MCRC-45006-2018

(RAMESH KUMAR YADAV Vs THE STATE OF MADHYA PRADESH)

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Jabalpur, dated: 16.11.2018

Shri Ashok Kumar Pali, learned counsel for the applicants.

Shri Vivek Lakhera, learned Government Advocate for the respondent/State.

Since both these Misc. Criminal Cases have arisen from the same Crime Number (Crime No.311/2018), they have been analogously heard and are being disposed of by this common order.

Heard on these first applications for bail under section **439** of the Code of Criminal Procedure filed on behalf of applicants in Crime No.311/2018 registered by Police Station Bijuri, District Anuppur under Sections 41 (1-4), 379, 411, 413, 409, 201 and 120-B of the Indian Penal Code.

The case of the prosecution is that, on 20.09.2018 at about 03:00 pm, a truck loaded with near about 17 Tonnes of iron plates and coal was found in front of the shop of co-accused Ashish Kumar Kushwaha. Co-accused Ashish Kumar Kushwaha was found unable to show any licence or permission in respect of aforesaid material. It was seized on the spot and co-accused Ashish Kumar Kushwaha has been arrested. The material which was found to be recovered were the dome plates, boring plates, rope bolt and rod, which were generally manufactured and used in Bijuri Regional Workshop. The applicants are said to be the Guards in that workshop that is why they are arrayed for criminal breach of trust (theft). On that basis offence has been registered against the applicants.

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Learned counsel for the applicants submits that the applicants are innocent and have falsely been implicated in the present case. It is further submitted that no seizure has been made from the applicants. It is also submitted by the learned counsel for the applicants that the applicants are permanent residents of the address described in the applications. They are ready to furnish adequate surety and shall abide by all the directions and conditions which may be imposed upon them. It is also submitted that applicants have been in custody since 23.10.2018. In view of the aforesaid, a prayer has been made to enlarge the applicants on bail.

Learned Government Advocate for the respondent/ State on the other hand has vehemently opposed the applications.

On perusal of the case diary and the statements of other workers of the Bijuri Regional Workshop, it seems that they have not supported the case of the prosecution and the participation of the applicant is retarded in the theft of seized material.

Keeping in view the facts and circumstances of the case in their entirety, particularly the fact as pointed out by the learned counsel for the applicants and the period of detention of the applicants, in the opinion of this Court, the applicants deserve the benefit of bail.

Consequently, the application under section **439** of the Code of Criminal Procedure, filed on behalf of applicants **Mohd. Nishad** and **Ramesh Kumar Yadav** is **allowed**.

It is directed that the applicants shall be released on

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bail on furnishing a personal bond in the sum of **Rs.30,000/-** with one solvent surety **each** in the like amount to the satisfaction of the trial Court for their appearance before that Court on all dates fixed in the case and for complying with the conditions enumerated under Section 437 (3) of the Code of Criminal Procedure.

Certified copy as per rules.

(Mohd. Fahim Anwar)
Judge

taj.