

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.4476 of 2015

1. Rajesh Kumar Anant @ Bhurwa, S/o Aasharam Anant, aged about 32 years, R/o Dhanwaipur, Police Station Katghora, District Korba (C.G.)
2. Lalji, S/o Late Maheshram Anant, aged about 36 years, R/o Dhanwaipur, Police Station Katghora, District Korba (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Katghora, District Korba (C.G.)

---- Non-applicant

For Applicants:	Mr. N.L. Soni, Advocate.
For Non-applicant:	Mr. Anupam Dubey, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board16/09/2015

1. The accused/applicants have moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.229/2002 (ST No.127/2003 pending in the Court of 3rd Additional Sessions Judge, Bilaspur), registered at Police Station Katghora, Distt. Korba, for the offence punishable under Sections 380, 302 & 307 read with Section 34 of the IPC.
2. Case of the prosecution, in brief, is that on 30-9-2002, informant Sohitdas – Village Kotwar along with other villagers reached to Police Station Katghora and lodged FIR that he was informed by villagers that Sakharam was murdered by some thieves and also Daras Bai was badly injured.
3. Learned counsel for the applicants submits that the applicants have suffered full-fledged trial being ST No.127/2003 and ultimately, by judgment dated 29-5-2004, they were acquitted. Against the judgment of acquittal, the victim /

complainant preferred revision under Section 397 read with Section 401 of the CrPC in which this Court by order dated 13-2-2015, allowed the revision, set aside the judgment of acquittal and remanded back the matter to the trial Court to afford an opportunity to the applicants subject to the observations made therein and thereby the applicants have surrendered on 6-8-2015 and since then they are in jail. Now, the trial has not progressed as directed by this Court. The applicants are languishing in jail and again they are in jail from 6-8-2015 till this date. Applicant Rajesh Kumar Anant @ Bhurwa was tried for offence punishable under Sections 302, 380 & 380 read with Section 34 of the IPC, whereas applicant Lalji was tried for offence punishable under Sections 307, 380 & 380 read with Section 34 of the IPC and they were acquitted of the respective charges.

4. On the other hand, learned State counsel opposes the application.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case and charges levelled against applicant No.1 Rajesh Kumar Anant @ Bhurwa, I do not consider it a fit case for grant of regular bail so far as applicant No.1 is concerned, considering his role. Consequently, the application so far as it relates to applicant No.1 Rajesh Kumar Anant @ Bhurwa, is rejected.
7. Taking into account the pre-trial detention of applicant No.2 Lalji who is in custody for near about 4 years, the fact that he has been charged only under Sections 307, 380 & 380 read with Section 34 of the IPC and the role ascribed to him, I am of the view that it is a fit case to enlarge applicant No.2 Lalji on regular bail. Accordingly, the application so far as it relates to applicant No.2 Lalji, is allowed.
8. It is, therefore, directed that applicant No.2 Lalji be released on bail on his

furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge