

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5928 of 2015

1. Ganesh Jhariya, S/o. Mohan Jhariya, Aged About 22 Years,
 2. Bhuwan Manikpuri, S/o. Himmat Das, Aged About 21 Years,
- Both are R/o. Village Rajawar, P.S. Salhevara, Tehsil Chhuikhadan, Distt. Rajnandgaon, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through P.S. Salhevara, Distt. Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant : Mr. Rakesh Pandey, Advocate

For Respondent : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05/11/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who has been arrested in connection with Crime No.15/2015 (wrongly mentioned as 20/2015 in the order) registered at Police Station- Salhevara, District Rajnandgaon (C.G.) for the offence punishable under Section 302, 201 of the Indian Penal Code.
2. Case of the prosecution is that on 29.04.2015 at night the deceased Anand Yadav was killed and thrown into the Well. The motive of kill was stated to be that one of the co-accused was having love affair with the sister of the deceased Anand Yadav and that was the reason for killing.
3. Learned counsel for the applicants submits that in this case neither any eye-witness has been found by the prosecution nor any last seen theory has been projected and only on the basis of recovery of Axe, the applicants have been inculpated. He further

submits that the size of Axe and wound are completely different which cannot connect the offence and the crime. He submits that the charge sheet has already been filed and the applicants are in jail since 02.05.2015; therefore, they may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail. He submits that the Axe was recovered at the memorandum of the applicant Ganesh. He further submits that the Axe was sent for FSL, however, the FSL report has not been filed alongwith the challan.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Having regard to the fact that there is no eye-witness of the case nor the theory of last seen together is being projected and the applicants have been inculpated on the ground of recovery of the Axe and the prosecution itself is doubtful whether the Axe was containing the blood or not, as the evidence is shaky; further taking into totality of the evidence so available, without any observation of merit, I am inclined to release the applicants on bail.
7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
8. It is directed that the applicants shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.
9. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge