

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 2978 OF 2015**

1. Ashraf Khan S/o Akbar Khan, Aged about 35 years,
2. Nasrat Khan S/o Akbar Khan, Aged about 33 years,

Both R/o Village-Pandripani, Police Station-Bilaigarh, Distt.Baloda Bazar-Bhatapara (CG)

---Applicants**Versus**

State of Chhattisgarh, Through: Station House Officer, Police Station-Bilaigarh, District : Baloda Bazar-Bhathapara (CG)

And**M.Cr.C. No. 3558 OF 2015**

1. Rahim Khan S/o Late Latif Khan aged about 62 years,
2. Lal Khan S/o Late Latif Khan, aged about 52 years
3. Abdul Khan S/o Late Basir Khan, aged about 55 years,

All are resident of village Pandripani, Police Station Bilaigarh, District Baloda Bazar-Bhathapara (CG)

---Applicants**Versus**

State of Chhattisgarh, Through: Station House Officer, Police Station-Bilaigarh, District : Baloda Bazar-Bhathapara (CG)

---Non-applicant

For Applicants	:	Mrs. Fouzia Mirza and Mr.Vivek Shrivastava, Advocates in M.Cr.C.No.2978 of 2015
For Applicants	:	Mr.Ashok Das Vaishnav and Mr.Uttam Pandey, Advocates in M.Cr.C.No.3558 of 2015
For-Non-applicant	:	Mr. Anupam Dubey, Dy.Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**CAV ORDER****31/07/2015**

1. Since the aforesaid two bail applications have been filed against

the same crime number i.e. Crime No.50 of 2015, they are being disposed of by this common order.

2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.50 of 2015, registered at Police Station-Bilaigarh, District-Baloda Bazar-Bhatapara (CG), for the offence punishable under Sections 147, 148, 294, 427, 452, 506, 323, 307 and 302 of the IPC.

3. Case of the prosecution, in brief, is that, on 5.2.2015 the present applicants along with other co-accused persons entered into the house of Dharamlal and assaulted him and other injured complainants by which Faguram died, four persons suffered grievous injuries and nineteen persons suffered simple injuries and thereby committed the aforesaid offence.

4. Mrs.Fouzia Mirza, learned counsel appearing for the applicants in M.Cr.C.No.2978 of 2015 would submit that counter-case against the complainant party has been registered as Crime No.51/2015 at Police Station-Bilaigarh for the offence punishable under Sections 147, 148, 294, 506, 452 and 323 of the IPC, in which they have been granted bail. She would further submit that wife of deceased Fagu Ram namely Angan Bai has named only Muse Khan & twelve others and not named the present applicants. She would also submit that there is no overt-act on the part of the present applicants, particularly, causing death blow or grievous injuries to the deceased. They are in custody since 7.2.2015 and charge-sheet has already been filed, therefore, the applicants may be released on regular bail.

5. Mr.Ashok Das Vaishnav and Mr.Uttam Pandey, learned counsel appearing for the applicants in M.Cr.C.No.3558 of 2015 would submit that

there is no overt-act on the part of the present applicants. They are in jail since 7.2.2015 and the complainants have already been released on bail on their report made in Crime No.51 of 2015, therefore, the applicants may be released on regular bail.

6. On the other hand, learned State counsel would oppose the bail applications.

7. I have heard learned counsel appearing for the parties and perused the case diary.

8. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; the manner in which the applicants armed with deadly weapons entered into the house of Dharamlal and others and assaulted them by which Fagu Ram died and several persons received grievous and simple injuries and the material collected on behalf of the prosecution against the applicants, this Court is not inclined to release the applicants on regular bail.

9. Accordingly, bail applications filed under Section 439 of the Cr.P.C. are rejected.

10. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-