

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.4953 of 2015

1. Dhannulal Loniya, aged about 57 years, S/o Dudanram Loniya
 2. Kedar Loniya, S/o Late Badruprasad Loniya, aged about 35 years,
- Both R/o Village Ghutku, P.S. Koni, Distt. Bilaspur (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Koni,
Distt. Bilaspur (C.G.)

---- Non-applicant

For Applicants:	Mr. Praveen Das, Advocate.
For Non-applicant:	Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. AgrawalOrder On Board21/09/2015

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.164/2015, registered at Police Station Koni, Distt. Bilaspur, for the offence punishable under Section 304 Part-II read with Section 34 of the IPC.
2. Case of the prosecution, in brief, is that applicant No.2 made barbed wire fencing in his field and also charged the barbed wire with electricity, deceased Sushila came into contact with it on 1-8-2015 and died by electric shock i.e. electrocution.
3. Learned counsel for the applicants submits that the applicants have not committed any offence, they have been falsely implicated in the case and they are in jail since 27-8-2015. Applicant No.2 is owner of the agricultural land on which barbed wire fencing was made with electric connection.

Applicant No.1, deceased Sushila and her father all had gone to the field of applicant No.2 for the purpose of performing agricultural operation and while returning back, the deceased came into contact with live electric wire i.e. barbed fencing and suffered electrocution and consequently, died by electric shock. There is no intention on the part of the applicants to commit the offence, at the most offence under Section 304A of the IPC would be made out against the applicants. In fact, applicant No.2 has extended the facility of sowing paddy crops to the father of the deceased as having the water facility in his field as such, there was no intention of committing the offence alleged against the applicants, even what could be inferred from the act of the present applicants. There is no evidence that the applicants have charged the barbed fencing wire with live electricity and as such, the applicants be released on regular bail.

4. On the other hand, learned State counsel opposes the application and submits that applicant No.2 being owner of the agricultural field in order to avoid cattle from entering in his field has used barbed wire fencing and charged the said wire with electricity.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, role of the present applicants, their pre-trial detention, submissions of learned counsel for the applicants, the fact that applicant No.2 is owner of the land in question and applicant No.1 is not owner of the land, I am of the view that it is a fit case to enlarge the applicants on regular bail. Accordingly, the application is allowed.
7. It is, therefore, directed that the applicants be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in

the like sum to the satisfaction of the concerned Court for their appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge