

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1129 of 2016

1. Chhedali Nishad, son of Late Budhu Nishad Aged About 55 Years, resident of Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
2. Chowaram Nishad S/o Shri Kriparam Nishad Aged About 24 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
3. Dikendra Nishad @ Bona S/o Shri Kriparam Nishad Aged About 20 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
4. Mukesh Kumar Nishad S/o Shri Bhhagu Nishad Aged About 25 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
5. Ajay Kumar Chandel S/o Shri Sant Kumar Chandel Aged About 18 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
6. Sanjay Chandel S/o Shri Kali Ram Chandel Aged About 19 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
7. Kanta Yadav S/o Late Mohan Yadav Aged About 27 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
8. Venktesh @ Baunty S/o Shri Dayalu Nishad Aged About 19 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
9. Kanhiyalal @ Bholu Nishad S/o Tulshiram Nishad Aged About 25 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh.
10. Vicky @ Rakesh Nishad S/o Gajanand Nishad Aged About 18 Years R/o Village Patharidih, P.S. Urla Raipur, District Raipur, Chhattisgarh. --- **Petitioners**

Vs.

- State of Chhattisgarh through Police Station Urla, District Raipur, Chhattisgarh. --- **Respondent**

For the applicants	:	Mr. J.N. Nande, Advocate
For the Respondent	:	Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.03.2016

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicants in connection with Crime No. 112/2015 registered at P.S. Urla, District Raipur (C.G) for the offence punishable under Sections 341, 147, 148, 149, 307 & 302 IPC. The first bail application was dismissed on 27.11.2015.
2. The prosecution case, in brief, is that on 23.05.2015 at about 3 p.m., some unknown persons were apprehended by the applicants on the allegation that they were lifting/taking away the children, as such, the applicants along-with other persons attacked and assaulted the persons thereby one of the persons died and the other person namely Ashwin was grievously injured.
3. Learned counsel for the applicants submits that complainant Jagtu Ram Nishad (P.W.1) who made the report has been examined before the Court and he has not supported the case of prosecution. Likewise the eye witnesses namely Yogeshwar @ Raju Nishad (P.W.5), Pawan Nishad (P.W.6) and Hemlal Nishad (P.W.3) have been examined and they have also not supported the case of prosecution and they have been declared hostile by the prosecution, therefore, no case is made out against these applicants. He further submits that injured Ashwini has been given up by the prosecution as he was not mentally fit to depose before the Court and therefore he prays that under these circumstances, the applicants may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail application. However, he is not able to dispute the fact that the complainant as also the other eye-witnesses have turned hostile and the injured Ashwini who was assaulted along-

with the deceased has been given up by the prosecution as he is mentally retarded.

5. Taking into consideration the totality of such facts and circumstances, without any observation on the merits of case, at this stage, this Court is inclined to release the applicants on bail.
6. Accordingly, this bail application is allowed and the applicants are directed to be released on bail on each of them executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court. They shall also appear before the trial Court as and when directed by the said Court till the disposal of trial.
7. C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE