

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.5371 of 2016

1. Chhotu @ Tushar, aged about 45 years, S/o Chhatram Khare, R/o Village Sasaha Road, Pamgarh, P.S. Pamgarh, District Janjgir-Champa (C.G.)
2. Dileram Suryawanshi, aged about 49 years, S/o Chavan Narayan (Chaman Narayan), R/o Village Somwari Bazar, Pamgarh, P.S. Pamgarh, District Janjgir-Champa (C.G.)

---- Applicants

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station Pamgarh, District Janjgir-Champa (C.G.)

---- Non-applicant

Misc. Criminal Case No.5903 of 2016

Ramratan @ Ratan, aged about 35 years, S/o Baliram Suryavanshi, R/o Jaitara Chowk, Pamgarh, Police Station Pamgarh, District Janjgir-Champa (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Pamgarh, District Janjgir-Champa (C.G.)

---- Non-applicant

AND

Misc. Criminal Case No.6004 of 2016

Ramsagar Singh Kamal, aged 41 years, S/o Late Hetram Kamal, Caste Satnami, R/o Village Jaitara Chowk, Pamgarh, P.S. Pamgarh, District Janjgir-Champa (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station Pamgarh, District Janjgir-Champa (C.G.)

---- Non-applicant

For Applicants in M.Cr.C.Nos.5371/2016 & 6004/2016: -

Mr. Kishore Bhaduri, Mr. Pawan Kesharwani and
Mr. Anmol Sharma, Advocates.

For Applicant in M.Cr.C.No.5903/2016: -

Mrs. Meena Shastri and Mrs. Ranjana Singh
Tomar, Advocates.

For Non-applicant/State:Mr. Dheeraj Kumar Wankhede, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/10/2016

1. Since all the cases arise out of one crime number i.e. Crime No.457/2004, they are heard analogously and are being decided by this common order.
2. The accused/applicants have moved these bail applications under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime Nos.457/2004, registered at Police Station Pamgarh, Distt. Janjgir-Champa, for the offence punishable under Sections 147, 148, 427, 436, 307, 302, 323 and 396 read with Section 149 of the IPC.
3. Case of the prosecution, in brief, is that the present applicants along with other convicted co-accused persons on 10-12-2004 at about 6.45 p.m., formed unlawful assembly in furtherance of common intention armed with deadly weapons, used force or violence and committed sabotage activity with the property of the complainants and caused damage to the motor vehicles owned by the complainants, set fire on them and also caused damage to the liquor shop of the complainant by setting fire and further assaulted the complainants by means of lathi and danda causing hurt to them as a result of which Mukesh @ Bhola Gupta died and further committed dacoity of Rs.3,70,000/-, and thereby committed

offence.

4. Mr. Kishore Bhaduri, learned counsel appearing for the applicants in M.Cr.C.Nos.5371/2016 and 6004/2016, submits that accused / applicant Chhotu @ Tushar is a Government teacher as well as accused / applicant Ramsagar Singh Kamal is working as Assistant Medical Officer at Kirari since long. These two applicants being Government servants are regularly appearing in the Government office and no offence was ever registered against them and made known to them for prosecution. They remained in service and they have been falsely implicated in the case. Convicted co-accused persons have already been granted bail by this Court in the criminal appeals preferred by them. There is no evidence of proceeding against them under Sections 82 and 83 of the CrPC and they are in jail for last more than four months i.e. since May, 2016. Accused / applicant Dileram Suryawanshi has contested the election and copy of nomination paper has already been filed. Therefore, the applicants are not aware of any registration of offence and prosecution against them. Charge-sheet has already been filed. No useful purpose will be served by further detaining them in jail now.
5. Mrs. Meena Shastri, learned counsel appearing for the applicant in M.Cr.C.No.5903/2016, submits that accused / applicant Ramratan @ Ratan is a villager, he remained in village and he never absconded. No proceeding under Sections 82 and 83 of the CrPC has been registered against him and as such, he has been falsely implicated in the case and he is also in jail since May, 2016.

6. On the other hand, learned State counsel opposes the applications.
7. I have heard learned counsel for the parties and perused the case diary.
8. It is admitted fact that FIR was registered against 28 persons out of whom 4 are juveniles and 20 persons were convicted by the competent criminal court and they have enlarged on bail by a Division Bench of this Court in Cr.A.Nos.201/2015 & 324/2015 by order dated 25-8-2015. Applicants Chhotu @ Tushar and Ramsagar Singh Kamal have claimed to be Government servants regularly appearing in their office and applicant Dileram Suryawanshi claims to have contested the local election of Panchayat. Applicant Ramratan @ Ratan is said to be a villager. No proceeding under Sections 82 and 83 of the CrPC appears to have taken place against them for declaring them absconded and no permanent warrant of arrest has been shown to be issued against them.
9. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, pretrial detention of the applicants, particularly, taking into account the fact that the applicants are in jail for more than four months and two accused persons namely Chhotu @ Tushar and Ramsagar Singh Kamal are Government servants, charge-sheet has been filed, no further custodial interrogation of the applicants is necessary and convicted accused persons have already been enlarged on bail, I am of the view that it is a fit case to grant regular bail to the applicants. Accordingly, the applications are allowed.

10. It is, therefore, directed that the applicants be released on bail on their furnishing a personal bond in the sum of Rs.50,000/- each 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

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