

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 6650 of 2016

1. Jama Bai, W/o. Kamlesh Yadav, aged about 30 years
2. Chandrabhaga, W/o. Late Darash Yadav, aged about 60 years,
Both are R/o. Village-Latuwa, Thana – City Kotwali, Baloda Bazar,
District – Baloda Bazar-Bhatapara (C.G.)

----Applicants

Versus

1. The State of Chhattisgarh, Through : the Police Station House Officer
– City Kotwali, Post Office – Baloda Bazar, District – Baloda Bazaar –
Bhatapara (C.G.)

---- Respondent

M.CR.C. No. 6781 of 2016

1. Rupa Yadav, W/o. Jagmohan Yadav, aged about 22 years, R/o.
Village- Paijani, Chowki – Lavan, Thana Kasdol, District – Baloda
Bazar – Bhatapara (C.G.). Presently address Village-Ravan, Thana-
Suhela, Distt- Baloda Bazaar – Bhatapara (C.G.) (wrongly mention in
impugned order presently R/o. Village-Latuwa, Thana – City Kotwali,
Baloda Bazar, Distt- Baloda Bazaar – Bhatapara (C.G.)

----Applicant

Versus

1. The State of Chhattisgarh, Through : the Police Station House Officer,
– City Kotwali, Post Office – Baloda Bazar, Distt. Baloda Bazar-
Bhatapara (C.G.)

---- Respondent

M.CR.C. No. 6791 of 2016

1. Smt. Brihaspati Bai, W/o. Seuk Yadav, aged about 45 years,
2. Smt. Baisakhin Bai, W/o. Liladhar Yadav, aged about 26 years,
3. Smt. Lalita Bai, W/o. Umesh Yadav, aged about 24 years,
All are R/o. Village-Latuwa, Thana – City Kotwali, Baloda Bazar,
District – Baloda Bazar-Bhatapara (C.G.)

----Applicants

Versus

1. The State of Chhattisgarh, Through : the Police Station House Officer
– City Kotwali, Post Office – Baloda Bazar, District – Baloda Bazaar –
Bhatapara (C.G.)

---- Respondent

M.CR.C. No. 7112 of 2016

1. Liladhar Yadav, S/o. Lae Darsh Yadav, aged about 32 years, R/o. Village-Latuwa, Thana City Kotwali, Baloda Bazar, District – Baloda Bazaar – Bhatapara (C.G.)

----Applicant

Versus

1. The State of Chhattisgarh, Through : the Police Station House Officer – City Kotwali, Post Office – Baloda Bazar, District – Baloda Bazaar – Bhatapara (C.G.)

---- Respondent

AND

M.CR.C. No. 7113 of 2016

1. Kamlesh Yadav, S/o. Late Darsh Yadav, aged about 45 years, R/o. Village-Latuwa, Thana – City Kotwali, Baloda Bazar, District – Baloda Bazar-Bhatapara (C.G.)

----Applicants

Versus

1. The State of Chhattisgarh, Through : the Police Station House Officer – City Kotwali, Post Office – Baloda Bazar, District – Baloda Bazaar – Bhatapara (C.G.)

---- Respondent

For Applicants	: Mr. Deepak Jain, Advocate
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17/11/2016

1. 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.233/2016, registered at Police Station – City Kotwali, Post Office - Baloda Bazar, District – Baloda Bazar – Bhatapara (C.G.) for the offence punishable under Section 147, 148, 149, 307, 302, 120-B of Indian Penal Code and 3 (2) (5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. Case of the prosecution, in brief, is that a dispute took place on 21.06.2016 over taking over the possession of the land between the Yadav family and Dhruw family. When the deceased wanted to implant poles over the land at that time Jama Bai, Chandrabhaga Bai, Rupa Bai, Brihaspati Bai, Baisakhin Bai, Lalita Bai came there and objected. Subsequently they were followed by male members i.e. Seuk Yadav, Pitambar, Umesh, Hemchand, Gajanand and Khemraj and after dispute aggravated assault was inflicted on the other persons namely Ramlal, Taman Bai, Ankit Dhruw and Vinod Dhruw by way of Crowbar (*Sabba*), Pickax (*Gaiti*), Spade (*Fawda*) and Club (Bamboo). Ramlal and Taman Bai died due to the injuries and when Ankit Dhruw and Vinod Dhruw tried to fled away, Liladhar Yadav caught hold of them as a result, they could not fled away and were assaulted and they subsequently died. In such incident, Manoj Dhruw and Saraswati Bai sustained injuries. Thereby the offence has been committed.
3. Learned counsel for the applicants submits that no direct allegation of assault is attributed to the present applicants and the assault is attributed to other co-accused and the present applicants were not armed with any weapon and Kamlesh Yadav, Jama Bai, Chandrabhaga, Brihaspati Bai, Rupa Bai, Baisakhin Bai and Lalita Bai only objected while the poles were being implanted in the land and Kamlesh Yadav was present and Leeladhar Yadav has also not inflicted any injury, therefore, only on the omnibus allegations they have been inculpated. Therefore, the counsel prays that the applicants may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application and read out the statement of Manoj Dhruw, eye-witnesses.
5. I have heard learned counsel appearing for the parties.
6. Perused the statement of eye-witness and the injured Manoj Dhruw. It is stated that Jama Bai, Chandrabhaga, Brihaspati Bai, Lalita, Baisakhin Bai, Rupa Bai objected to implant the poles and the presence of the Kamlesh Yadav has been stated to be in the spot. Vinod Kumar has stated that while Ankit Dhruw and another Vinod Dhruw tried to fled away, they were caught hold of by Liladhar and were thrown into ground, subsequently, the injury was inflicted by other persons.
7. Considering the totality of the case and the role played by the applicants I am inclined to release the applicants, Jama Bai, Chandrabhaga, Rupa Yadav, Smt. Brihaspati Bai, Smt. Baisakhin Bai, Smt. Lalita Bai and Kamlesh Yadav on bail for the alleged degree of participation. Further taking into the statement of Vinod Dhruw recorded under Section 164 of Cr.P.C. I am not inclined to release the applicant – Liladhar Yadav on bail.
8. Accordingly, the bail applications bearing M.Cr.C. No.6650/2016, M.Cr.C. No. 6781/2016, M.Cr.C. No.6791/2016 and M.Cr.C. No.7113/2016 filed under Section 439 of the Cr.P.C. are allowed and the bail application bearing M.Cr.C.No. 7112/2016 is dismissed.

9. It is directed that applicants - Jama Bai, Chandrabhaga, Rupa Yadav, Smt. Brihaspati Bai, Smt. Baisakhin Bai, Smt. Lalita Bai and Kamlesh Yadav shall be released on bail on their furnishing a personal bond in the 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.
10. Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Balram