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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2760 of 2017

- Yashpal Chouhan S/o Mangal Sai Chouhan, Aged About 21 Years, Occupation- Agriculturist, R/o Village- Kunkuri, Police Station Sitapur, District Surguja, Chhattisgarh.
- Shankar Yadav S/o Faguram Yadav, Aged About 21 Years, R/o Bilaidhodhi, P.S. Sitapur, Distt. Surguja, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Kapu, District Raigarh, Chhattisgarh.

---- Non-applicant

For Applicants – Shri Vivek Tripathi, Advocate.

For Non-applicant/State – Shri U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-11-2017

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicants for regular bail. The applicants have been arrested on 22-06-2016 in connection with Crime No.62/2016 registered at P.S. Kapu, District Raigarh, C.G. for the offence under Section 302, 201, 34 of the IPC.

2. It is submitted on behalf of the applicants that the applicants are innocent and they have been falsely implicated in this case. Only incriminating circumstance against them is that they were seen in the village of deceased on the date of incident and have vanished thereafter. There is no eye-witness and neither there is any circumstantial evidence against the applicants. The applicants are in jail since 22-06-2016. They are willing to abide by all the conditions to be imposed on grant of bail. Therefore, it is prayed that they may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the case against the applicants is based on circumstantial

evidence and no case is made out in their favour for grant of bail. Hence, the application may be dismissed.

4. Heard learned counsel for both the parties and perused the case diary.

5. Facts of the case are that on the date of incident there had been a marriage ceremony in the village of the deceased where the applicants and one another had come to the village to participate in that ceremony. The applicants were last seen with the deceased Mukesh Shrivastava drinking liquor and the deceased was using abusive words for the applicants and others. Thereafter, the deceased was found dead. On postmortem examination, it was found that the death of the deceased was homicidal, hence, the case has been registered.

6. Considering on the submissions made and the contents of the case diary and the statements of the witnesses about the presence of the applicants in the village on the date of incident and the fact that only evidence against the applicants is the memorandum statements of the accused persons and the recovery of Sim card from one of the applicant Shankar on which the case of prosecution rests, this Court is of the considered view that this is a fit case where the applicant should be enlarged on bail.

7. Consequently, the application (MCRC No.2760/2017) filed under Section 439 of the Cr.P.C. by the applicants is hereby allowed. It is directed that the applicants shall be released on bail on each of them 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge