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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5346 of 2017**

- Dheeraj Markam S/o Shri Rohit Markam, Aged About 40 Years R/o Utai, Police Station Utai District Durg (Chhattisgarh), Presently Inspector, Police Station Balodabazar, District Balodabazar- Bhatapara (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station, City Kotwali, Balodabazar, District Balodabazar- Bhatapara (Chhattisgarh).

---- Non-Applicant

And**MCRC No. 5735 Of 2017**

- Lomash Kumar Sahu S/o Dvarika Prasad Sahu, Aged About 25 Years R/o Bajarang Chowk, Baigapara Kasdol, Police Station Kasdol, Tehsil And District Balod Bazar Bhatapara, Chhattisgarh C/o Police Constable 929 Police Station Balodabazar District Balod Bazar Bhatapara, Chhattisgarh.

---- Applicant

Vs

- State Of Chhattisgarh Through Police Station City Kotwali Balodabazar Bhatapara, Chhattisgarh.

---- Non-Applicant

And**MCRC No. 5997 Of 2017**

- Ku. Leela Sahu D/o Sonchand Sahu, Aged About 23 Years R/o Village Sasaha, Police Station Palari Civil & Revenue District Baloda Bazar Bhatapara Chhattisgarh Other Address Women Constable No. 492, Reserve Centre Baloda Bazar, Civil & Revenue District Baloda Bazar

Bhatapara Chhattisgarh.

---- Applicant

Vs

- State Of Chhattisgarh Through Police Station City Kotwali Baloda Bazar Civil & Revenue District Baloda Bazar Bhatapara Chhattisgarh.

---- Non-Applicant

And

MCRC No. 7104 Of 2017

- Sandeep Singh S/o K. S. Thakur Aged About 35 Years R/o Behind Old Collector Office, Ward No. 17 Janjgir, Distt. Janjgir-Champa Chhattisgarh Probation Trainee Sub Inspector Police Rakshit Kendra, Baloda Bazar Distt. Baloda Bazar Distt. Baloda Bazar

---- Applicant

Vs

- State Of Chhattisgarh Through P. S. District Magistrate District Baloda Bazar Chhattisgarh.

---- Non-Applicant

For Applicants : Shri PKC Tiwari, Sr. Advocate with Shri Kripesh G. Kela, Shri Kishore Bhaduri with Shri Pawan Kesharwani, Shri Afroj Khan on behalf of Shri Ashish Shrivastava and Shri Adil Minhaj, Advocates.
For Non-Applicant : Shri Adhiraj Surana, Deputy GA .
For Objector : Shri Palash Tiwari, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

07/12/2017

1. The applicants have preferred these applications for grant of bail as they are arrested in connection with Crime No.159/2017, registered at Police

Station : City Kotwali/Baloda Bazar, District Balodabazar – Bhatapara for offence under Sections 302/34, 294 and 506 of the IPC.

2. The applicants have allegedly committed murder, while sharing common intention, of deceased Jaswant Singh Saluja, while he was in police custody between 7 pm and 9 pm on 9.4.2017. Applicant Dheeraj Markam is the Traffic Inspector; Applicant Lomash Kumar Sahu is the Constable; Applicant Ku. Leela Sahu is the lady Constable and Applicant Sandeep Singh is the Police Inspector on probation of the concerned Police Station at the relevant point of time.
3. According to the prosecution, while the deceased was travelling on motorcycle with pillion riders Munnalal and Dilip Kurre, the traffic inspector stopped him and took away the keys of the motorcycle. Thereafter scuffle and manhandling took place between the deceased and the traffic policeman for which a call was made to the police station which was received by applicant Sandeep Singh as recorded in Sanha No.66. Sandeep Singh rushed to the place of occurrence and brought the deceased to the police station. While the deceased was in police custody, he was severely beaten over his head and other parts of the body. He started bleeding from nostrils and his condition became serious. He was taken to the hospital at 21.00 hours as recorded in Sanha No.71, however at 21.05 hours the doctor declared him “brought dead”.
4. It is argued by learned counsel for the parties that no specific role has been assigned to any of the applicants. They were on duty, however, they have not beaten the deceased and there being no eyewitness, the applicants deserve to be released on bail. Learned counsel have read the material available in the charge sheet to buttress their submission that there is no evidence against any of the applicants.
5. Per contra, learned State Counsel and counsel for the objector as well would read over the statements of Sonam Saluja and Kajal Saluja. It is further argued that the above named daughters of the deceased have

identified by the accused persons, therefore, their presence and participation in committing murder of the deceased is fully substantiated by the evidence.

6. I have heard learned counsel for the parties at length and perused the record.
7. Postmortem report would indicate that the deceased had injuries over right eye consisting of bruises with swelling and sub conjunctival haemorrhage, caused by hard and blunt object. Bleeding from right nostril. The deceased was found to have sustained sub vertical haemorrhage or intra cerebral haemorrhage on left parietal region with chocolate coloured blood clot formed.
8. The injuries sustained by the deceased match with the statement of eyewitness Sonam Saluja, who had gone to the police station to see her father and during her visit, she witnessed that her father was beaten by the policemen. Her request to call a doctor for medical help to the deceased was also arrogantly turned down by the accused persons. This witness would say that her father was thrown in the jeep for taking him to the hospital as if he is a commodity.
9. In the report of Human Rights Commission circulated to the State Government on 22.11.1999, it is clearly stated that when the person arrested is brought to the police station, he should, if he makes a request in this regard, be given prompt medical assistance. He must be informed of this right. Where the police officer finds that the arrested person is in a condition where he is unable to make such request but is in need of medical help, he should promptly arrange for the same. This must also be recorded contemporaneously in a register. The female requesting for medical help should be examined only by a female registered medical practitioner. (S.53 Cr.P.C.)
10. In the considered view of this Court, there is prima facie material against the applicants to connect them with the murder of the deceased. They have violated his human rights by not calling the doctor or

sending him to the hospital immediately when the deceased complained of some ailment and his daughter brought some medicines from the house. It does not behove of the policeman to treat a person in custody inhumanly and refuse to send him for medical help. The deceased had not committed any serious offence like murder, dacoity or rape nor was a dreaded criminal that sending him to the hospital would have endangered the public peace and tranquility. He had simply violated the traffic rules or was involved in scuffle or manhandling with the traffic police.

11. Merely because the charge sheet has been filed, the bail is not to be allowed in every case without appreciating the seriousness of the crime. When the policemen are involved in violating the human rights of a person in custody and caused his death, it is worst kind of offence, which is known to the civilised society governed by the rule of law.
12. No case for grant of bail is made out to any of the applicants. The applications are therefore liable to be and are hereby rejected.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve