

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5800 of 2017**

1. Ashok Sahu @ Yadoram S/o Dayaram Aged About 39 Years R/o Indira Nagar Chikhli Tehsil And District Durg, Chhattisgarh.
2. Shatrughan Sahu S/o Dayaram Aged About 40 Years R/o Indira Nagar Chikhli Tehsil And District Durg, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri A.C. Sahu, Advocate.
For the Objector	:	Shri B.P. Singh, Advocate.
For the Respondent/State	:	Shri U.K.S. Chandel, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****08.11.2017**

1. This is the first bail application 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.16 of 2017, registered at Police Chowki Zewra, P.S. Pulgaon, District – Durg, Chhattisgarh for the offence punishable under Sections 294, 506B, 323, 325 and 307/ 34 of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. FIR was lodged on 5.1.2017. On the basis of which, the offence under Sections 294, 506B, 323/ 34 of the IPC were registered. Later on, on the report of the doctor, offence under Section 325 of the IPC was added. The applicants had been on bail at the initial

stage. Later on, on the basis of a query report submitted by the doctor that the weapon used in the incident a club which could have probably caused death of the complainant, an offence under Section 307 of the IPC has been added and the applicants were arrested. Consequent to that, after passing of six months, complainant – Ghanshyam Sahu has expired. Postmortem examination of deceased - Ghanshyam Sahu was conducted, in which the report mentions that no specific reason can be assigned for the cause of death. Under these circumstances, it is prayed that the applicants may be enlarged on bail.

3. Shri B.P. Singh, counsel for the Objector submits that the case against the applicants has not been investigated in a proper manner by the concerned police. Soon after the incident, the complainant had lost his voice, he could not speak and he has to undergo prolonged treatment. Later on, as a result of the injuries caused to the complainant, he has expired after six months from the date of incident. Hence, for these reasons, the applicants are not entitled for grant of bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there is direct evidence against the applicants in this case. Hence, for this reason, they are not entitled for grant of bail.

5. Heard counsel for both the parties and perused the case diary.

6. Learned counsel for the applicants placed reliance on the judgment of the Supreme Court in the case of **Bhadresh Bipinbhai Sheth vs. State of Gujarat and Another** reported in **(2016) 1 SCC 152** and the order of this Court in **Samsan Martyn vs. State of Chhattisgarh** in **M.Cr.C.(A) No. 1067 of 2015**. The incident took place on 29.12.2016 and the applicants assaulted victim - Ghanshyam Sahu with a club causing him injuries. Hemlata Sahu, wife of Ghanshyam Sahu lodged FIR in police outpost Zewra on 5.1.2017 after lapse of six days. On the basis of information given, offences under Sections 294, 506B and 323/ 34 of the IPC were registered and the offences were bailable. Hence, the applicants were enlarged on bail. Later on, on the basis of query report received, offence under Section 325 of the IPC was added. Subsequent to that, on the basis of another query report, offence under Section 307 of IPC was also added. Thereafter, the investigation has been completed and the charge-sheet has been filed against the applicants for the offences under Section 294, 506B, 323, 325 and 307/ 34 of the IPC.

7. Considering the submissions made and the contents of the case diary, looking to the fact that the incident has taken place on 29.12.2016, the injury caused to the victim and the report of the doctor and further the result of the postmortem report, without further commenting anything on the merits of this Court, I am of the considered opinion that the application deserves to be allowed.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that the applicant shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge