

HIGH COURT OF CHHATTISGARH, BILASPUR

MISC. CRIMINAL CASE NO. 5818 OF 2017

1. Sushil Yadav, S/o Shivshankar Yadav, Aged about 24 years, R/o Belwartoli, PS Bagicha, Distt. Jashpur (CG).
2. Baleshwar Yadav, S/o Tetgu Yadav, aged about 31 years, R/o Dattalgawa, PS Bagicha, District Jashpur (CG).

... Applicants

Versus

The State of Chhattisgarh, through Police Station, Dhourpur, Distt. Surguja (CG).

... Respondent

For Applicants	:	Shri AK Prasad, Advocate.
For Respondent-State	:	Shri Gary Mukhopadhyay, Dy.GA.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/11/2017

1. This is the first bail application seeking for grant of bail to the Applicants who are in jail since 28.05.2017 in connection with Crime No. 36 of 2017 registered at Police Station Dhourpur, Distt. Surguja, for the offence punishable under Sections 302 and 201/34 IPC.
2. As per prosecution case, the applicants is said to have assaulted the deceased Bholaram with stone and on account of the injures sustained he succumbed.
3. Learned Counsel for the applicants submits that the applicants have been falsely implicated in the case as there is no evidence available with the police authorities for implicating them except for the bald statement being made by one Siyaram who was accompanying the deceased all along before the incident. Further, the statement of Siyaram was recorded after 15-20 days from the date of incident. In the intervening period from the date of accident i.e. 09.05.2017 to

28.05.2017 there is no averment by any persons in respect of the present applicants having assaulted the deceased. It is a case where the said Siyaram is said to have informed many of the villagers also about the assault made by the applicants immediately after the incident, but there is no such statement available in the case diary to substantiate the fact, and therefore they may be enlarged on bail.

4. Opposing the bail application, learned Counsel for the State submits that it is a case where the applicants had threatened Siyaram of dire consequences if he discloses the incident to any person and out of fear of threat, he did not disclose about the incident to anyone. For the first time on 28.05.2017 he disclosed about the incident, and therefore the applicants may not be enlarged on bail.
5. Having considered the rival contentions put forth on either side and taking note of statement of Siyaram, prima facie it reflects that he had initially divulged this incident to many of the villagers, however, none of the villagers have come forward to substantiate this aspect. Further, this information has not been disclosed to the authorities right from 09.05.2017 up till 28.05.2017. It was disclosed for the first time when statement of Siyaram was recorded. All these facts and circumstances prima facie reflect a great element of doubt on the prosecution story. Thus, this Court is of the opinion that the present is a fit case where the Applicants can be enlarged on bail.
6. Accordingly, the application for grant of bail is allowed. It is directed that the Applicants shall be released on bail on their furnishing a personal bond for a sum of Rs.20,000/- each with one surety of the

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like sum to the satisfaction of the concerned Trial Court for their appearance as and when directed.

**Sd/-
(P. Sam Koshy)
Judge**

inder