

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8381 of 2016

1. Bhola Soni S/o Parasram Soni Aged About 21 Years R/o Village Lakhasar, Police Station Hirri District Bilaspur, Chhattisgarh.
2. Bala @ Sanjay Kewat S/o Pardesi Lala Aged About 25 Years R/o Village Lakhasar, Police Station Hirri District Bilaspur, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh through Station House Officer, Hirri, District Bilaspur, Chhattisgarh.

--- Respondent

For the applicant	:	Mr. Ajay Ayachi, Advocate
For the Respondent	:	Mr. Ashutosh Pandey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07.02.2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicants in connection with Crime No. 85 of 2016 registered at P.S. Hirri, Distt. Bilaspur (C.G) for the offence punishable under Sections 302, 323/34 of IPC.
2. As per the prosecution case, on 19.06.2016 deceased Kamal Suryavanshi along-with Ravi Kumar Sarthi and Hemraj Suryavanshi had gone to Lakhasar Khar where the liquor was being sold. After consuming certain quantity of liquor, they wanted to purchase more liquor where upon a dispute took place with liquor seller Mantri Yadav for increasing the cost of liquor and in the said dispute applicants Bhola Soni and Bala @ Sanjay Kenwat assaulted the deceased and others.
3. Learned counsel for the applicants would submit that the prosecution has cited 3 eye-witnesses namely Deva

Suryanshi, Hardeo Prasad Suryavanshi and Ravi Kumar Shastri and they have not stated anything against the applicants, therefore, the applicants may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail.
5. perused the case diary and document. As appears, 3 eye-witnesses have been examined and they have not supported the case of prosecution, therefore, they have been declared hostile. However, the statement of another person namely Hemraj who was an eye-witness has not yet been recorded. Considering the same it would not be appropriate for this Court to reconsider the bail at this stage by usurping the power of trial Court and this Court cannot also issue a direction for examination of any particular witness. Taking into totality of the facts and circumstances of the case, I am not inclined to allow this bail application. Accordingly, it is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**