

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5707 of 2017

1. Manish Upadhyay, S/o. Shri Pramod Upadhyay, Aged About 28 Years.
2. Anish Upadhyay, S/o. Shri Pramod Upadhyay, Aged About 25 Years.

Both R/o. Village Bagithari, Thana Kachwa, District Mizoram (U.P.),
Temporary R/o. Masjid Gali, Surajpur, P.S. Surajpur, District
Surajpur, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh, Through P.S. Surajpur, District Surajpur,
Chhattisgarh.

---- Respondent

For Applicants : Mr. Maneesh Sharma with Mr. Pragalbha
Sharma, Advocates

For Respondent : Mr. Sangharsh Pandey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

05.09.2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants who have been arrested in connection with Crime No.352/2016 registered at Police Station- Surajpur (C.G.) for the offence punishable under Sections 302, 120B of I.P.C. and 25 & 27 of Arms Act. The first bail application was dismissed on merit on 11.01.2017 in MCRC No.8542 of 2016.
2. As per the prosecution case, on 23.08.2016 dead body of one Umesh Pillai was found near Sutiya Canal at Surajpur. It was found that he was shot dead by a country made pistol. Subsequently, during investigation, it was revealed that co-accused Hansraj Agrawal & Vishnu Agrawal with whom the deceased had close nexus have conspired to kill as the deceased has prepared sexual MMS of co-accused Hansraj & Vishu Agrawal and on the basis of

that the said co-accused were blackmailed, therefore, they made a plot to kill him and conspired with the present applicants and procured a country made pistol through the applicants by which the deceased was shot dead.

3. Learned counsel for the applicants would submit that earlier on the basis of statement of Deepak Kumar Goel, the bail was rejected and now Deepak Kumar Goel has been examined and he has not supported the case of the prosecution, therefore, the applicants may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perusal of the case diary and statement would show that Section 120B of I.P.C. was also added, therefore, picking up one statement and give an opinion will amount to give an observation on merit. It can only be decided by the trial Court after evaluating the entire evidence before it. Considering the same, nature of offence and facts of the case, I am not inclined to entertain the instant second bail application.
6. Accordingly, the second bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge