

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7434 of 2017

Rajkumar Sidar @ Mantri S/o Dilip Sidar, Aged About 20 Years
Occupation Labour, R/o Village Saurapara, Purani Basti, Kharsiya, Police
Station Kharsiya, District Raigarh Chhattisgarh.

----Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police of Police
Station Kharsiya District Raigarh Chhattisgarh.

---- Respondent

MCRC No. 14 of 2018

Yudhisthir Rathore S/o Ledhwaram Rathore, Aged About 20 Years
Occupation Student, R/o Bhimsen Chowk, Ghatora, Tahsil And Thana
Masturi, District Bilaspur Chhattisgarh Civil And Revenue District Bilaspur
(CG).

---- Applicant

Versus

State of Chhattisgarh Through The District Magistrate District Raigarh
Chhattisgarh.

---- Respondent

MCRC No. 15 of 2018

1. Rajesh Kumar Rathore @ Rinku Rathore S/o Pawan Kumar Rathore Aged
About 24 Years
2. Rajesh Kurre S/o Late Kumar Singh Kurre, Aged About 19 Years
Both R/o Village Sapia, Tahsil Malkharofha, Civil And Revenue District
Janjgir Champa Chhattisgarh.
3. Bhola Nishad S/o Premlal Aged About 19 Years
4. Gopal Nishad S/o Om Prakash Nishad Aged About 18 Years
Both R/o Post Thakur Diya Tahsil Kharsiya Civil And Revenue District
Raigarh Chhattisgarh.

----Applicants

Versus

State of Chhattisgarh Through The District Magistrate Distt. Raigarh
Chhattisgarh.

---- Respondent

MCRC No. 642 of 2018

Dron Kumar Rathor S/o Shri Vishal Nath Rathor Aged About 27 Years R/o
Village Sapiya, Police Station Dabhra District Janjgir Champa,
Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Police Station Kharsia District Raigarh,
Chhattisgarh.

---- Respondent

For Applicants	:	Shri BP Sharma, Shri Hari Agrawal, Shri Ajay Pal Singh, Shri Vipin Tiwari and Shri Abhishek Saraf, Advocates.
For Respondent-State	:	Shri Gary Mukhopadhyay, Govt. Advocate and Ms. M. Asha, Panel Lawyer.
For Objector	:	Shri Rakesh Pandey, Advocate.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

07/03/2018

1. These are four bail applications seeking for grant of bail to the Applicants who are in jail since September-October, 2017 onwards in connection with Crime No. 414 of 2017 registered at Police Station Kharsiya, District Raigarh, for the offence punishable under Sections 147, 148, 149, 302, 294, 506, 452, 323 and 427 IPC.
2. The allegation as per prosecution against the applicants are that, the present applicants is said to have along with other co-accused persons on 27.09.2017 gone to the shop of the complainant Arjun Rohra and there on account of some altercation between them, the applicants have assaulted the complainant by Lathi and Danda on account of which the complainant Arjun Rohra sustained injuries. Arjun Rohra is said to have lodged FIR on 27.09.2017 at around 8:15 PM i.e. after one hour from the incident that took place at around 7 PM. Later on it is said the said complainant Arjun Rohra expired on the same day. Postmortem of dead body was conducted and in the postmortem the cause of death shown was coronary artery disease in a case of trauma.
3. Learned Counsel for the applicants submit that the deceased did not die a homicidal death and the cause of death was not due to the alleged injuries sustained by him in the said incident. The initial MLC report was that the injuries sustained were not grievous in nature. It was further contended by the applicants that the entire incident has been captured in the CCTV Camera installed in the shop of

complainant himself. Further, even the CCTV Camera does not give positive assertion of the present applicants involved in assaulting the complainant Arjun Rohra. All the applicants are young boys, they have been falsely implicated in the case and are in jail since September-October, 2017 onwards and therefore they may be released on bail. They further submits that even if the entire contents of FIR is taken into account, even then, offence under Section 302 IPC is not made out.

4. The State counsel as well as the counsel for the Objector opposing the appeal submit that there is specific allegation against all the applicants by the witnesses examined during the course of investigation. That, the complainant himself has lodged the FIR immediately after the incident and he has specifically named each of the applicants. His statement and the FIR also establishes the overt-act on the part of each of the applicants. Thus, prayed for rejection of bail applications.
5. At this juncture it would be relevant to refer that this court on 22.01.2018 had asked the prosecution to get the recordings of CCTV footage processed and a report be submitted before this court.
6. The prosecution has during the course of hearing produced a report dated 09.02.2018. A bare perusal of report would show that though all these applicants were present in the shop of the complainant, however there does not show that these applicants were in possession of Lathi and Danda or equipped with any sort of weapons, as has been stated by the complainant in his FIR.

Moreover, the CCTV Camera report also does not divulge any sort of major assault being given by the applicants to the complainant except for a minor scuffle.

7. Given the aforesaid factual matrix of the case particularly taking into consideration that even in the CCTV Camera report there does not appear any specific serious overt-act on the part of each of the applicants with any Club or Danda, this Court is of the opinion that these are fit cases where the Applicants can be enlarged on bail.
8. Accordingly, all the applications for grant of bail are allowed. It is directed that the all 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 like sum to the satisfaction of the concerned Trial Court for their appearance as and when directed.

Sd/-
(P. Sam Koshy)
Judge