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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 1719 of 2018**

1. Dhirendra (wrongly mentioned as Virendra) Kumar Jangde S/o Gorelal Jangde Aged About 18 Years R/o- Village- Mudpaar, P.S.- Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
2. Gorelal S/o Agarman Jangde Aged About 44 Years R/o- Village- Mudpaar, P.S.- Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
3. Chandan S/o Dhaniram Jangde Aged About 22 Years R/o- Village- Mudpaar, P.S.- Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh
4. Dhaniram S/o Agarman Jangde Aged About 47 Years R/o- Village- Mudpaar, P.S.- Bilaigarh, District- Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through- P.S. Bilaigarh, Revenue And Civil District- Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhathapara, Chhattisgarh.

---- Respondent

For the Applicants : Shri Raja Sharma, Advocate.
 For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****24.04.2018**

Heard.

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.433 of 2017, registered at Police Station Bilaigarh, District Baloda Bazar, Bhatapara, Chhattisgarh for the offence punishable under Sections 147, 148, 149, 120B, 201, 452, 302, 307, 436 and 435 of the Indian Penal Code and Sections 25 and 27 of the Arms Act.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. The fact is that all the applicants are residents of the same village and at the time of incident, they were present on the spot as spectators. Because of the previous enmity with the complainant party, these applicants have been falsely implicated in this case. The statements of the witnesses recorded under Section 161 of the Cr.P.C. also clearly demonstrated that at the time when the deceased was assaulted and the property was burnt, the role of these applicants has not been assigned, which itself shows that these applicants were not part of the unlawful assembly. Hence, it is prayed that the applicants be enlarged on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that it is a case in which there are four eye-witnesses out of which one eyewitness has clearly mentioned all the names as part of the unlawful assembly. Hence, for these reasons, the applicants are not entitled for grant of bail.

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

5. According to the prosecution case, on 17.12.2017 at about sometime after 6:30 pm on account of some dispute between co-accused - Nikki Chandan with Gopi Chand, brother of complainant – Priyanka Tandon, as alleged, all the co-accused persons including these applicants arrived outside the house of the complainant armed with clubs and swords and using abusive words. On seeing the main accused, Priyanka Tandon went in

hiding alongwith other family members but the unlawful assembly assaulted deceased - Meera Bai caused her death, also the property was burnt. After lodging of FIR, the case has been registered against these applicants. It has been found that deceased – Meera Bai has died due to homicidal death. Hence, this case.

6. Although the names of these applicants find place in the FIR and also in the statements under Section 161 of the Cr.P.C. of Priyanka Tandon and the other eyewitnesses, they do not make any clear statement against these persons according to the submissions made by counsel for the applicants. Hence, for these reasons, it appears that these applicants are not the main assailants in this case. Hence, this application is allowed.

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

8. It is directed that applicants 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