

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 2344 of 2018**

Vidyanand Rathore S/o Ram Ratan Rathore Aged About 28 Years R/o- Village Sapia, Tahsil- Malkharaoda, P.S.- Dabhra, District- Janjgir-Champa, Chhattisgarh, Civil And Revenue District- Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- The District Magistrate, District- Raigarh, Chhattisgarh.

----Non-applicant**AND****MCRC No. 2583 of 2018**

Yugansh Rathore @ Golu S/o Manoj Ku. Rathore Aged About 18 Years R/o- Village Sapiya, P.S.- Dabhara, District- Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Police Station- Kharsia, District- Raigarh, Chhattisgarh.

----Non-applicant

For respective Applicants	:	Mr. Vineet Kumar Pandey, Advocate Mr. Hari Agrawal, Advocate
For State	:	Mr. Shashank Thakur, Govt. Advocate
For Objector	:	Mr. Rakesh Pandey, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order on Board****02/05/2018**

1. These are two applications filed under Section 439 Cr.P.C. for grant of bail to the applicants, who have been arrested in connection with Crime Nos. 414/2017 registered at Police Station Kharsia, District Raigarh, Chhattisgarh for the offence punishable under Sections 147, 148, 149, 302, 452, 294, 506, 323 & 427 of the Indian Penal Code.
2. These two applicants are arrested on 28.09.2017 and 26.10.2017 respectively in connection with the aforesaid Crime number.

3. The allegation against these two applicants as per the prosecution case is that the present applicants along with two accused persons had gone to the shop of the complainant Arun Rohra and there on an altercation between the present appellants and accused persons is said to have assaulted Arjun Rohra, who had suffered injuries. The said Arjun Rohra, the complainant immediately lodged an F.I.R. on the same day and thereafter it is said that he had succumbed to his injuries later.
4. The contentions of the counsel for the applicants in these cases are that the cases of these two applicants are similar to the accused persons, who have been granted bail by this Court on 07.03.2018. Moreover, it was also submitted that the CCTV report, which has been called for by this Court also does not reflect any overt act on the part of the present applicants, neither the assault part being established from the CCTV report. In addition, it was also the finding of the authorities concerned that none of the applicants were carrying any *lathi-danda* or a weapon in their hand and therefore the present applicants also should be granted the benefit of bail on parity. It was further contended that there is a material contradiction so far as the number of injuries, which the complainant had suffered, in as much as while the MLC was being conducted, there were 7 injuries detected. However, in the postmortem report, there were 16 injuries reported, and for all these reasons, the present applicants may be released on bail.
5. The State counsel as well as the counsel for the Objector on the contrary submits that the cases of these two applicants are different than the case of the accused persons, who have been granted bail. According to the counsel for the State as well as the Objector, it is a

case where the complainant whose F.I.R. lodged immediately after the incident, reflected the names of these two applicants. Moreover, these two applicants also have been named by the injured person Deepak Sachdev, thus he becomes an eyewitness to the entire incident. In addition, from the possession of the applicant Vidyanand Rathore the police authorities have also seized a *lathi*.

6. Considering the fact that there are positive averments made by the deceased as well as by the injured witness against these two applicants in respect of their participation in commission of the offence, this Court is of the opinion that the case of these two applicants are different than the accused persons, who have already been released on bail by this Court. Considering the role played by the present applicants and the fact that their names have been reflected in the F.I.R. so also in the statement of the injured witness, this Court is of the opinion that present are not fit cases for grant of bail.
7. The present two bail applications accordingly stand rejected.

Sd/-
(P. Sam Koshy)
Judge