

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2788 of 2018

1. Shankar Rathore S/o Shrilal, Aged About 25 Years, R/o Lalpur, Police Station Gourela, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Chandram Rathore S/o Shri Chaitram, Aged About 48 Years, R/o Lalpur, Police Station Gourela, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
3. Mahesh Prashad Rathore S/o Ramkaran, Aged About 35 Years, R/o Lalpur, Police Station Gourela, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
4. Santlal Rathore S/o Mahipat Singh, Aged About 47 Years, R/o Donjara, Police Station Gourela, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
5. Shrilal Rathore S/o Jaggu Rathore, Aged About 52 Years, R/o Lalpur, Police Station Gourela, District Bilaspur, Chhattisgarh, District : Bilaspur, Chhattisgarh
6. Dashrath Rathore S/o Dharmu Rathore, Aged About 26 Years, R/o Lalpur, Police Station Gourela, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Gourela, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicants – Mr. Ashok Soni, Advocate.

For Non-applicant/State – Ms. M. Asha, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

21-06-2018

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicants for grant of regular bail. The applicants have been arrested on 16-11-2017, 21-11-2017 and 13-12-2017 in connection with Crime No.132/17 registered at P.S. Gourela, District Bilaspur, Chhattisgarh for the offence under Section 147, 148, 149, 302 of the IPC.

2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. The applicants are in jail since about six months.

No case is made out against these applicants of offence to be prosecuted for charge of murder, in fact, deceased Diyaram was mentally unsound and just before the time of incident he had murdered his maternal grand-mother, mother and one neighbour and had also assaulted his wife causing injuries to her. It was an act of sudden outrage, the mob lynched the deceased, because of which he has died. Hence, it is prayed that the applicants may be granted regular bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that there is direct evidence that these applicants have participated in assaulting badly the deceased, hence, they are not entitled for grant of bail.

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

5. On the date of incident, 31-05-2017, deceased Diyaram who was a person of unsound mind assaulted his maternal grand-mother, mother and one neighbour with club, which resulted in their death and thereafter he tried to make his escape in train where he was pushed down by the other passengers. Thereafter, he fell down. It is alleged that these applicants caught hold of him and assaulted him with blunt side of the axe, club and hands and fists causing various injuries, because of which, he was hospitalized and he died subsequently. On the basis of the evidence of the eye-witnesses, the case has been registered against these applicants.

6. Considered on entire material present in the case diary. It appears that this is a case of sudden provocation. Considering the case in totality, I am of this view that these applicants should be granted bail during period of the trial against them.

7. Consequently, this application filed under Section 439 of the Cr.P.C. by the applicants is hereby allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of

Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil