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HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 2638 of 2018

1. Sayaturam S/o Manoram Baghel Aged About 30 Years R/o- Village Gourdand P.S. Chhotedongar, District- Kondagaon, Chhattisgarh., District : Kondagaon, Chhattisgarh
2. Lalsay S/o Late Rajuram Aged About 35 Years R/o- Village Gourdand P.S. Chhotedongar, District- Kondagaon, Chhattisgarh., District : Kondagaon, Chhattisgarh
3. Massuram S/o Rajman Nag Aged About 44 Years R/o- Village Gourdand P.S. Chhotedongar, District- Kondagaon, Chhattisgarh., District : Kondagaon, Chhattisgarh
4. Hariram S/o Baldev Aged About 42 Years R/o- Village Gourdand P.S. Chhotedongar, District- Kondagaon, Chhattisgarh., District : Kondagaon, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through- The Police Station Chhotedongar, District- Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

----Respondent

And

M.Cr.C. No. 3052 of 2018

1. Punaauram S /o Mangalram Belsariya, Aged About 42 Years R/o Village- Gaurdand, Police Station- Chhotedonger, District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh
2. Anganram (Wrongly Mentioned As Angatram), S/o Late Sukhram Belsariya, Aged About 35 Years R/o Village- Gaurdand, Police Station- Chhotedonger, District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh
3. Bhaktu Ram S/o Chhedilal Nag, Aged About 21 Years R/o Village- Gaurdand, Police Station- Chhotedonger, District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh

4. Smt. Ushabai, W/o Anganram Belsariya, Aged About 32 Years (Wrongly Mentioned As Angatram), Jaleshwar (Wrongly Mentioned), District : Narayanpur, Chhattisgarh
5. Smt. Devki, W/o Jaleshwar(Wrongly Mentioned Naleshwar), Aged About 32 Years R/o Village- Gaurdand, Police Station- Chhotedonger, District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through S. H. O. Police Station- Chhotedonger, District Narayanpur, Chhattisgarh., District : Narayanpur, Chhattisgarh.

----Respondent

For the Applicants : Shri P. K. Tulsiyan and Shri Vaibhav A Goverdhan, Advocates.

For the Respondents/State : Shri Aditya Sharma, PL and Shri Anupam Dubey, Dy. GA.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18.05.2018.

1. Both the applications are heard and decided together by this common, order, as both the bail applications are arising out the same crime number.
2. This is the Second bail application filed by the applicants in MCRC No.2638/2018 and their first bail application has been decided on merits and rejected by this Court by order dated 02.04.2018 and in MCRC No.3052/2018 this is the First bail application filed by the applicants, who have been arrested in connection with Crime No. 5/2016 registered at Police Station – Chhotedonagar, District –

Narayanpur, (C.G), for the offences under Sections 302, 147, 148, 149, 458, 365, 120 (B), 201 of the Indian Penal Code and Sections 5 of C.G Tonhi Pratarna Prevention Act, 2005.

3. It is submitted that in both the cases the applicants are in jail since 02.04.2016 and more than 2 years has passed, but the trial is not yet completed, because of which, the applicants are languishing in jail. No case is made out against them on the basis of material present in the charge-sheet. Apart from that the witnesses who have been examined before the trial Court so far, have not made any adverse statement against these applicants, which is a change in circumstance in favour of these applicants. Hence, they may be granted bail.
4. Learned counsel for the State opposes the bail application and submits that earlier the bail application filed by the applicants in MCRC No.3638/2018 has been rejected on merits after due consideration. Both the applicants are not entitled for grant of bail and Similarly, the case in MCRC NO.3052/2018 are also not entitled for grant of bail.
5. At this stage learned counsel for the applicants submits that one of the co-accused person has been released on bail by this Court in MCRC NO.801/2018, hence, for these reasons and for the reason of delay in conclusion of the trial and hostility of the witnesses the applicants have become entitled for grant of bail.
6. Heard counsel for both the parties and perused the case diary.
7. As regard the applicants in MCRC NO.2638/2018 they does not appear to be change in circumstance. Even though some of the witnesses have been examined by the trial Court, that does not entitle them for grant of bail. The trial is still pending and the decision on the availability or absence of evidence, shall be given

by the trial Court itself. It is a case of brutal murder of deceased Sampat Belsariya and Neera Belsariya and further 10 witnesses have already been examined out of 13 witnesses, which shows that the trial will be concluded shortly, for this reason, this Court is not inclined to release the applicants on bail.

8. Accordingly, the bail applications filed under Section 439 of Cr.P.C. are rejected.

Sd /-

(Rajendra Chandra Singh Samant)

Judge

Jamal