

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C No.3644 of 2018**

1. Suraj Kosle @ Dadu, S/o Mahesh Kosle Aged About 23 Years R/o- Dikshsa Nagar, Premin Bai's House, Behind Ayushi Kirana Stores, P.S.- Gudhiyari, District- Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Ishwar Dhritlahre @ Bablo S/o Premlal Dhritlahre Aged About 23 Years R/o- Behind Krishna Medical Satnami Para, P.S.- Gudhiyari, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through- P.S.- Gudhiyari, District- Raipur, Chhattisgarh.,
District : Raipur, Chhattisgarh

---- Respondent**MCRC No. 4878 of 2018**

Shriram @ Ram Sahu S/o Dashrath Lal Sahu Aged About 18 Years R/o Murra Bhatti, Parvati Nagar, Opposite Sohan Kirana Stores, P.S. Gudhiyari, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through P.S. Gudhiyari, District Raipur, Chhattisgarh,
District : Raipur, Chhattisgarh

---- Non-Applicant

For Applicants:	Shri Devershi Thakur, Advocate.
For State/Non-Applicant:	Shri Ravindra Agrawal, Govt. Advocate.

Single Bench: Hon'ble Shri Sanjay Agrawal, J**Order On Board****03.10.2018**

1. These M.Cr.Cs filed under Section 439 Code of Criminal Procedure for grant of regular bail are being disposed of by a common order wherein, the Applicants were arrested on 21.10.2017 in connection with Crime No.27/2018 registered at Police Station –Gudiyari, District Raipur (CG) for the offence punishable under Sections 147, 148, 149, 294, 506, 323, 307, 302 IPC &

under Sections 25 & 27 of the Arms Act.

2. The case of the prosecution is that on 21.10.2017, Complainant Md. Murshid was accompanying his friend Harish and Vijay Mate on his motorcycle. When they reached near Diskha Nagar, they started smoking beside a pan shop. Further case of the prosecution is that at the relevant time, accused persons namely Suraj Shah, Sriram Sahu @ Ram, Arun Sahu @ Chota @ Bathva, Suraj Koshle @ Dadu, Maamraj Verma and Ishwar Dhritlahre @ Bablo came there. Upon seeing Vijay Mate, accused Suraj Shah started abusing him using filthy language and also assaulted him with sword and at that time, Vijay Mate was caught hold by other accused persons. On account of the alleged incident, deceased Vijay Mate was admitted into the hospital where he expired on the same day. Based upon the said incident, the offence as mentioned aforesaid has been registered.

3. Shri Thakur, learned Counsel for the Applicant would submit that the Applicants are innocent and have been falsely implicated in the instant case. He submits further that Complainant Md. Murshid was examined and turned hostile without supporting the case of the prosecution. He submits further that the Applicants are in jail since 21.10.2017 and therefore, they may be released on bail.

4. On the other hand, learned counsel for the State opposed the prayer for bail while submitting that at the relevant time, when deceased Vijay Mate was being assaulted with sword by Suraj Shah, he was caught hold by other accused persons. He further submits that though Complainant Md. Murshid has turned hostile, but his evidence is required to be considered by the trial Court based upon the other prosecution witnesses. As such, the Applicants are not entitled to be enlarged on bail.

5. I have heard learned Counsel for the parties and perused the entire case diary carefully.

6. Having considered the facts and circumstances of the case, the manner in which deceased Vijay Mate was assaulted by Suraj Shah when he was caught hold by other accused persons and considering further that though Complainant Md. Murshid has turned hostile, but his statement is required to be considered by the trial Court along with the other prosecution witnesses, I am not inclined to enlarge the Applicants on bail and particularly when the offence is serious in nature and used deadly weapon like sword was recovered from the possession of one of the co-accused namely Suraj Shah.

7. Accordingly, both the applications are rejected.

Sd/-
(Sanjay Agrawal)
Judge

Priya