

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3677 of 2018**

Deenanath Rathiya S/o Kailash Singh Rathiya Aged About 25 Years R/o- Village Baihamuda, P.S. And Tahsil Gharghoda, District- Raigarh, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Officer In Charge, P.S. Gharghoda, District- Raigarh, Chhattisgarh.

---- Respondent

AND

MCRC No. 3786 of 2018

Arjun Rathiya S/o Kailash Singh Rathiya Aged About 27 Years R/o- Village Baihamuda, P.S. And Tahsil Gharghoda, District- Raigarh, Chhattisgarh.

Versus

State Of Chhattisgarh Through- Officer In Charge, P.S. Gharghoda, District- Raigarh, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Mateen Siddiqui, Advocate in MCRC No. 3677/2018 and Shri D.K. Gwalre, Advocate in MCRC No.3786/2018
For the State	:	Shri Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Sharad Kumar Gupta

Order On Board**29/08/2018**

1. These two bail applications arises from same Crime number, thus they are being disposed of by common order.
2. Both are the first bail applications under Section 439 of the CrPC and there are no bail applications are pending before any other Court.
3. Perused the case diary provided by the learned counsel for the State

in connection with the Crime No. 27/2018 registered at Police Station Gharghoda, District Raigarh (C.G.) for the offence punishable under Section 302/34 of IPC.

4. Case of the prosecution, in brief is that the name of the deceased is Ful Singh Rathiya. He is resident of village Baihamuda. On 30/01/2018 near about 4.30 p.m. applicants and co-accused Basant Rathiya had beaten the deceased by club. Deceased was instantly succumbed on the spot.
5. Counsel for the applicants argued that there was a property dispute between both the parties, as per the postmortem report only one head injury was found on the deceased. On the memorandum of the co-accused Basant Rathiya one club has been seized from him. No club has been seized from the applicants, therefore, Section 34 of IPC does not attract.
6. On the other hand, learned counsel for the State opposes the bail application.
7. What would be effect of one head injury, property dispute, would be considered at the time of the disposal of the case. At this stage *prima facie* it could not be said that Section 34 of IPC does not attract.
8. Looking to the facts and circumstances of the case, looking to the seriousness of the alleged offence and also the impact of granting bail on the society, this Court is not inclined to grant bail to the applicants.
9. Consequently, the MCRCs are dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge