

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3614 of 2018**

Kamla Bai, W/o Ganesh, Aged About 53 Years, R/o Village Khapri Khurd, Chowki-Chilphi, Police Station Lormi, District Mungeli, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh, Through Station House Officer, Police Station Lormi, District Mungeli, Chhattisgarh.

---- Non-Applicant**And****M.Cr.C. No. 4589 of 2018**

1. Dilip Kurre, S/o Chandrika Kurre, Aged About 28 Years, R/o Village Khapri Khurd, Post Chilfi, Police Station Lormi, District Mungeli, Chhattisgarh.
2. Dilesh Kurre, S/o Chandrika Kurre, Aged About 27 Years, R/o Village Khapri Khurd, Post Chilfi, Police Station Lormi, District Mungeli, Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh, Through Post Chilfi, Thana Lormi, District Mungeli, Chhattisgarh.

---- Non-Applicant

For Applicants	:	Shri Sangeet Kumar Kushwaha, Advocate. (In all petitions)
For Non-Applicant/State	:	Shri Vaibhav A. Goverdhan, P. L.

Hon'ble Shri Justice Sanjay Agrawal

Order On Board

29.11.2018

1. Since both the petitions arise out of same Crime No. 92/2018, they are being heard and disposed of by this common order.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the applicants as they have been arrested on 26.02.2018 in connection with Crime No. 92/2018, registered in Police Station Lormi, District Mungeli (C.G.) for the offence punishable under Section 294, 324, 325, 506(b), 307, 302 read with Section 34 of Indian Penal Code, 1860 (for short 'IPC').
3. The case of the prosecution is that on 23.02.2018 at about 9:00 pm the accused persons called the injured Amit Kurre and caught hold of him and assaulted badly with the deadly weapon like axe and Ganesh Kurre inflicted several injuries on his legs by the said weapon. On account of the alleged assault, he sustained serious injuries and was immediately hospitalized, however, he expired on 21.04.2018. Based upon the said incident the FIR was lodged by one Dev Lal and based upon it, the aforesaid offences have been registered against the applicants.
4. Learned counsel for the applicants submits that the applicants have been falsely implicated in connection with the aforesaid crime. He submits further that the eye witness Bhagwati has turned hostile and not supported the prosecution story. Likewise,

the other prosecution witnesses have also turned hostile. Therefore, the applicants, who are in jail since 26.02.2018, may be enlarged on bail.

5. On the other hand, learned State counsel opposes the bail applications by submitting, inter alia, that although the prosecution witnesses including the eye witness have turned hostile, but the statement of Amit Kurre, which was recorded under Section 161 of the Cr.P.C. on 24.02.2018 would show very specifically that all the accused persons/applicants have assaulted him badly, and the statement so made by him cannot be ignored at this stage. The applicants are, therefore, not entitled to be enlarged on bail.
6. I have heard the learned counsel for the parties and perused the entire case diary carefully.
7. Having considered the facts and circumstances of the case, considering the allegations levelled against the applicants and that by taking into consideration the statement of deceased Amit Kurre under Section 161 of Cr.P.C., I am not inclined to enlarge the applicants on bail. Accordingly, the bail applications are rejected.
8. A copy of this order be placed on record of MCRC No. 4589/2018.

Sd/-
(Sanjay Agrawal)
Judge