

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6738 of 2018

1. Puran Netam, S/o Kamlu Netam, Aged about 41 years,
2. Bheema Nag S/o Bhaktu Nag, Aged about 36 years,
3. Sukchand, S/o Raghunath Baghel, Aged about 50 years,
4. Rupsai, S/o Asman, Aged about 29 years,
5. Dhaniram Kashyap S/o Jairam, Aged about 32 years,
6. Baliram Netam S/o Kamluram, Aged about 45 years

All R/o Village Sautpur, Barkagudapara, PS Karpavand, Tahsil Bakavand,
District Bastar (C.G.).

--- Applicants

Versus

State of Chhattisgarh, Through District Magistrate Bastar Place Jagdalpur
(C.G.).

---- Respondent

For Applicant	:	Mr. Varun Sharma, Advocate
For Respondent	:	Mr. R.K. Jaiswal, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

26/11/2018

1. The Applicants have preferred this Second bail application under Section 439 of the Cr.P.C for grant of regular bail as they are arrested in connection with Crime No. 78/2015 registered at Police Station Karvapand, District Bastar (C.G.) for the offence punishable under Sections 147, 148, 149, 307 & 307 of the Indian Penal Code.
2. First bail application of the Applicants was dismissed for want of prosecution vide order dated 20/08/2018 passed in MCRC No. 5306/2018.
3. As per prosecution case, on 11/09/2015 at about 5 am Deceased- Anju

Mishra had gone for attending the call of nature. It is alleged that he was assaulted by the Applicants and other co-accused persons. They also tied his hands and legs and after pouring kerosene on him and set him on fire. The witnesses reached on the spot and saw the incident. FIR was lodged on 11/09/2015. On the basis of said FIR, initially offence has been registered under Section 307 of the IPC. On 17/09/2015, the Deceased was discharged from the Hospital. Thereafter, on 21/12/2015, he has died, therefore, offence under Section 302 of the IPC was added. The Applicants have been arrested on 30/01/2018.

4. Learned counsel appearing on behalf of the Applicants submits that the Applicants are innocent and have been falsely implicated. He further submits that on the basis of material available on record, no offence under Section 302 or 307 of the IPC is made out against the Applicants. None of the witnesses has stated anything against the Applicants. Only their presence on the spot cannot amount to their participation in the alleged offence. The incident took place on 17/09/2015 and the Deceased died on 21/12/2015. There is no direct evidence available on record on the basis of which it may be presumed that the death of the Deceased occurred due to the incident happened on 11/09/2015. He further submits that even in the postmortem report, Doctor has not given any definite opinion regarding cause of death of the Deceased. The Applicants are in custody since 30/01/2018, therefore, they may be released on bail.
5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned counsel for both the parties.

7. Considering the submissions made and the contents of the case diary. Further, considering the material available on record and the evidence collected by the prosecution and that the incident happened on 11/09/2015 and the Deceased died on 21/12/2015, and no definite opinion regarding cause of death has been given by the doctor, without further commenting on merit of the case, I am inclined to release the Applicants on bail.
8. Accordingly, the bail application is allowed.
9. It is directed that the Applicants shall be released on bail on each of them executing a personal bond of Rs. 20,000/- with one surety for the like amount to the satisfaction of the trial Court for their appearance before the said Court, as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul