

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 303 of 2019**

1. Mohd. Ashraf Hussain S/o Shri Mohd. Anwar Hussain Aged About 23 Years R/o Behind Nutan School, P.S. Tikrapara, Raipur, District- Raipur, Chhattisgarh.
2. Mohd. Mustakeem S/o Shri Mohd. Sarif @ Saleem Aged About 26 Years R/o Near Marwadi Samshanghat, Veerbadhra Nagar, Raipur, District- Raipur, CG

---- Applicants

Versus

State Of Chhattisgarh Through P.S. City Kotwali, District- Raipur, CG

---- Respondent

MCRC No. 408 of 2019

Gendlal Sinha @ Pawan @ Pappu S/o Shri Channulal Sinha Aged About 28 Years R/o Dutrenga, P. S. Mujgahan Raipur CG

---- Applicant

Versus

State Of Chhattisgarh Through P. S. City Kotwali, District Raipur CG

---- Respondent

For applicants	Mr. Syed Imtiaz Ali, Adv.
For Respondent/State	Mrs. M. Asha, Panel Lawyer.

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****1-2-2019**

1. As both the above two bail applications arise out of the same crime number of same police station, they are being disposed of by this common order.
2. These are first bail applications under Section 439 of the Cr.P.C. preferred by the applicants before this Court and their no bail application is pending before any other court.
3. The applicants have been arrested in connection with Crime No. 365/2018 registered in police station City Kotwali, Raipur (CG) for offence punishable under Sections 294, 327, 386, 506(B), 120-B of the IPC and Section 25 and 27 of the Arms Act.

4. Perused the case diary.
5. Prosecution story in brief is that 28-10-2018 about 10.30 pm near Kalibadi Chowk, Raipur, applicants reached near complainant Arvind Gupta and told that the cash demanded by Monika had not been given yet. Monika had demanded Rs. 5 lacs from the complainant. Said complainant replied that he has no money. Then the applicants caused him blow by knife. In trying to save himself, the complainant received injury. As per MLC report of the complainant, one incised wound is found on his right thigh.
6. Counsel for the applicant argued that the applicants are innocent and falsely implicated. He further argued that in any case, provisions of Section 386 of IPC are not attracted in the case. Hence they may be released on bail. He placed reliance on a decision of Hon'ble Supreme Court in **Isaac Isanga Musumba and others -v- State of Maharashtra and others** [(2014) 15 SCC 357].
7. On the other hand, the State Counsel opposed the bail application. However, he submits that no criminal antecedent of the applicants is mentioned in the police case diary.
8. Whether provisions of Section 386 of IPC are attracted in the case or not is a point to be considered by the trial Court. At this stage it would not be proper to express whether provisions of Section 386, IPC are attracted in the case or not.
9. Looking to the facts and circumstances of the case, considering the totality of the evidence available on record and also the impact of granting bail to the applicants on the society, this Court is not inclined to grant bail to the applicants.
10. Consequently, the MCRCs are dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge