

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 701 of 2019**

1. Sumer Singh Thakur @ Golu S/o Shankar Singh Aged About 37 Years R/o Phoolchowk, P. S. Azad Chowk, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Amit Bawaria S/o Ramesh Bawaria Aged About 26 Years R/o Lalita Chowk, Badhaipara, P. S. Moudhapara, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through The Police Station Kotwali Raipur District Raipur Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 896 of 2019**

Vivek Singh S/o Ajay Singh Aged About 24 Years R/o Handi Para, Near Krishna Mandir, P. S. Azad Chowk, Raipur Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through The Station House Officer, Police Station Kotwali, Civil And Revenue District Raipur Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Devershi Thakur and Shri Y.C. Sharma, Advocates.
For the Respondent/State	:	Shri Adil Minhaj, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.08.2019**

Heard.

1. Both these applications are decided by a common order as they arise from the same incident. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with

Crime No.332 of 2018, registered at Police Station Kotwali, Raipur, District – Raipur, Chhattisgarh for the offence punishable under Sections 294, 506B, 307 and 302/ 34 of the Indian Penal Code.

2. Learned counsel for the applicants submit that the applicants in both the cases are in jail since 27.09.2018 and they have been falsely implicated in this case. No case is made out against the applicants on the basis of the material placed before the Court by the prosecution. The applicants have been arrested in this case on the basis of the description given by the complainant and the witnesses and also on the basis of CCTV footage of the nearby shops. The CCTV footage itself shows that the applicants in both the cases were seen dancing in the procession and were not in company of the main accused who has stabbed the deceased. It is further submitted that none of these applicants are the assailants having caused the fatal injury to the deceased as they are in custody since more than one year and the trial against the applicants has not made any progress. Hence, it is prayed that the applicants in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that the complainant and other eyewitnesses have very clearly named these applicants as the persons who have acted in furtherance of common intention in the said commission of crime. Hence, for these reasons, none of the applicants deserves to be enlarged on bail.

4. In reply, learned counsel for the applicants in both the cases submitted that the CCTV footage would show clearly that these applicants were not the

assailants and CCTV footage has been produced to be observed by this Court.

5. Heard counsel for both the parties and perused the case diary.

6. FIR has been lodged that on 25.9.2018 the lord Ganesh idols were being taken for farewell immersion. On the spot of incident, deceased – Zuber Chungal and others participated in one of the procession and started dancing. Some persons objected to their participation and started abusing and threatening them and thereafter, they started beating deceased – Zuber Chungal. Three of those unknown persons caught hold of deceased – Zuber Chungal and one another assaulted the deceased with knife causing him numerous injuries which resulted in his death.

All the accused persons including co-accused – Atul Talmale have stated in memorandum regarding their involvement in the commission of offence. There are four eyewitnesses to this incident who have identified these applicants as the persons who were directly involved in the incident and there is diary statement of all these witnesses against these applicants.

7. On observing the CCTV footage produced before the Court by the applicants' side, it is found that nothing can be made out from the CCTV footage and this can be used by the applicants' side in their defence in case the witnesses can make out anything from the same. After overall consideration of the case, I am of this opinion that no case is made out for grant of regular bail to these applicants.

8. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi