

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3197 of 2019

1. Dinesh Sahu S/o Bhuvneshwar Sahu, Aged About 32 Years, R/o Village Kalgatar, P.S. and Tahsil- Barmkela, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
2. Umesh Kumar Patel S/o Shri Shivilal Patel, Aged About 24 Years, Caste- Aghariya, R/o Village- Charbhatha, Aamapali, P.S. and Tahsil- Barmkela, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
3. Kunjbihari Kodaku S/o Shri Ratiram Kodaku, Aged About 23 Years, Caste- Kodaku, Occupation- Labour, R/o Village Chingridih, P.S. and Tahsil Baramkela, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, through, Station House Officer, Police Station- Baramkela, District- Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

----Non-applicant

For Applicants – Shri Awadh Tripathi, Advocate.

For Non-applicant/State – Shri Avinash K. Mishra, Panel Lawyer.

Shri Kamal Kishore Patel, Advocate for objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-07-2019

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court filed by the applicants for grant of regular bail. The applicants have been arrested on 25-02-2019 in connection with Crime No.23/2019 registered at P.S. - Baramkela, District Raigarh, Chhattisgarh for the offence under Section 302, 201, 120B, 34 of the IPC.
2. It is submitted on behalf of the applicants that the applicants have been falsely implicated in this case. They are in jail since 25-02-2019. Name of these applicants have appeared only on the memorandum statement given by the co-accused persons. Apart from that, there is no legally admissible evidence available against these applicants for their prosecution in this case. Therefore, it is prayed that these applicants may be enlarged on bail.
3. Learned counsel for the State/non-applicant opposes the application and submits that the main accused in this case has made confessional

statement, on the basis of which there is evidence of involvement of these applicants in the commission of crime. There is evidence of extra judicial confession available, on the basis of which there is substance to show criminality on the part of the applicants. Therefore, the application may be rejected.

4. Learned counsel for the objector submits that the investigation in this case is still not complete, wife of deceased Jitram Choudhari had filed WPCR No.343/2019 in which vide order dated 09-07-2019 this Court has ordered the police authorities to make additional investigation in this case, which will further unearth evidence against the applicants. Therefore, the applicants are not entitled for grant of bail.

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

6. As per the prosecution case, on the date of incident deceased Jitram Choudhari was present on the spot of digging of pond where these applicants were present, then all of a sudden co-accused Yashwant Yadav with intention to cause death of the deceased emptied the trolley containing soil over deceased Jitram Choudhari, because of which he got buried in that soil and died on the spot. Thereafter, the dead body of the deceased was removed from the spot and placed in an agricultural field to destroy the evidence of offence by these applicants. Hence, this case.

7. After perusal of the evidence present in the case diary for the prosecution of these applicants and for the reason that further investigation has been ordered, I do not feel inclined to grant bail to these applicants in this case.

8. Consequently, the application filed by the applicants under Section 439 of the Cr.P.C. for grant of regular bail is rejected.

9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge