

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3706 of 2019

1. Fulsingh, S/o Sadhram Yadav, Aged About 53 Years, R/o Taldevri, Police Station Birra, District Janjgir-Champa Chhattisgarh.
2. Bedram Sahu, S/o Ghasiya Ram, Aged About 37 Years, R/o Taldevri, Police Station-Birra, District-Janjgir-Champa, Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh, Through Police Station Birra, District-Janjgir-Champa, Chhattisgarh.

---- Respondent

MCRC No. 3791 of 2019

1. Nagendra Kumar Chandra, S/o Shri Tarun Kumar Chandra, Aged About 26 Years Agriculturist, R/o Borsi, Tahsil - Champa, District Janjgir Champa Chhattisgarh.
2. Santosh Kumar Chandra, S/o Shri Panchram Chandra, Aged About 39 Years, Assistant Teacher, Jhalap, Near Hasaud, R/o Borsi, Tahsil - Champa, District-Janjgir Champa, Chhattisgarh.

---- Applicants

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station Birra, District-Janjgir Champa, Chhattisgarh.

---- Respondent

MCRC No. 3890 of 2019

1. Kanhaiya Lal Adle, S/o Uchitram Adle Aged About 37 Years R/o Teldevri, Police Station-Birra, District Janjgir-Champa Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Birra, District Janjgir-Champa Chhattisgarh.

---- Respondent

MCRC No. 3936 of 2019

1. Bhojram Chandra, S/o Shri Bahadur Chandra, Aged About 42 Years, R/o Borsi, Tahsil- Champa, District- Janjgir- Champa, Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station- Birra, District- Janjgir- Champa, Chhattisgarh.

---- Respondent

MCRC No. 3938 of 2019

1. Vinod Chandra, S/o Shri Babulal Chandra, Aged About 26 Years, R/o Borsi, Tahsil- Champa, District- Janjgir- Champa, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Birra, District- Janjgir- Champa, Chhattisgarh.

---- Respondent

MCRC No. 4256 of 2019

- Rajkumar Chandra, S/o Shri Firat Ram Chandra, Aged About 26 Years, R/o Village- Kekrabhat, Post- Akalsara, Police Station- Baradwar, Tahsil- Jaijaipur, Civil & Revenue District- Janjgir-Champa, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Officer In- Charge, Police Station- Birra, District- Janjgir- Champa, Chhattisgarh.

---- Respondent

MCRC No. 4372 of 2019

- Rakesh Chandra, S/o Shri Firat Ram Chandra, Aged About 25 Years R/o Village Kekrabhat, Post Office Akalsara, Police Station Baradwar, District- Janjgir-Champa, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Acting Through Officer-In-Charge Police Station-Birra, District- Janjgir-Champa, Chhattisgarh.

---- Respondent

MCRCA No. 1175 of 2019

1. Sunil Kumar Chandra, S/o Dadulal Chandra, Aged About 28 Years, Caste-Chndranahu, R/o Village Borsi Police Station-Birra, District Janjgir Champa Chhattisgarh.
2. Shivshankar Chandra, S/o Firatram Chandra Aged About 37 Years Caste Chndranahu, R/o Village Borsi Police Station-Birra, District Janjgir Champa Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh Through The District Magistrate Janjgir , District Janjgir Champa Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Rajeev Kumar Dubey, Advocate in MCRC Nos.3706/2019 & 3890/2019.
	:	Mr. Awadh Tripathi, Advocate in MCRC Nos.3791/2019, 3936/2019 & 3938/2019.
	:	Mr. K.M. Ansari, Sr. Adv. with Mr. Ramesh Nayak, Advocate in MCRC Nos. 4256/2019 & 4372/2019.
	:	Mr. Rakesh Pandey, Advocate in MCRC(A) No.1175/2019.
For Respondent/State	:	Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

13/08/2019

1. Since the above bail applications are similar in nature and arise out of the same chain of incidents, they are being heard and decided together by this common order.
2. Applicants in M.Cr.C(A) No.1175/2019 have filed this application seeking anticipatory bail as they apprehend their arrest in connection

with Crime No.48/2019 registered at Police Station-Birra, District-Janjgir Champa, Chhattisgarh for the offence punishable under Sections 147, 186, 294, 302, 323, 341, 427 & 506B of Indian Penal Code (for short 'IPC').

3. Applicants in M.Cr.C. No.3706/2019 & 3890/2019, 3791/2019, 3936/2019 & 3938/2019, 4256/2019 & 4372/2019 have filed this application seeking regular bail as they are in custody in connection with Crime No.48/2019 & Crime No.49/2019 (MCRC No.3890/2019) registered at PS-Birra, District-Janjgir-Champa for the offence punishable under Sections 147, 186, 294, 302, 323, 353, 332 341, 427 & 506B of IPC.
4. It is argued by Mr. Awadh Tripathi, counsel for applicants that applicants in all these cases have not participated in the commission of offence as alleged, and only for the reason that the applicants were present on the spot of the incident, they have been held to be part of the mob, which had done away with life of the deceased. Further, the deceased in this case died because of negligence in treatment. The deceased was first admitted in a hospital at Janjgir from where he was referred to the Apollo Hospital, Bilaspur. However, the family members of the deceased got him discharged and admitted in Pratham Hospital where he died. Memorandum statements of accused persons very clearly mention that only two persons namely - Sonu & Pushpendra Chandra were engaged in assaulting the deceased.
5. It is argued by Mr. Rajeev Kumar Dubey, counsel for applicants in MCRC Nos.3706/2019 & 3890/2019, that the applicants in this case have not participated. Memorandum statements of co-accused persons very clearly reveal that only two persons were assailants.

6. It is argued by Mr. K.M. Ansari, Sr. Advocate, assisted by Mr. Ramesh Nayak that there is inherent fault in the investigation of case because of which the entire investigation is vitiated. The police personnels who themselves are eyewitnesses of incident, have also investigated the case. Name of the applicants have been arrayed without there being any evidence against them, therefore, the case is fabricated one. Therefore, it is prayed that the applications be allowed.

Reliance has been placed on the judgment of Supreme Court in Megha Singh Vs. State of Haryana reported in AIR 1995 SC 2339, judgment of Allahabad High Court Bhagwan Dayal Piare Lal Vs. The State reported in 1968 CRI.L.J. 1028 & Gopal Krishna Vs. The State reported in AIR 1964 All 481, 1964 CriLJ 497.

7. Learned counsel for the State opposes the applications and submissions made by the respective counsel. It is submitted that all the applicants have been duly identified as the persons present on the spot and having participated in the commission of offence. In the same case the police personnels were also assaulted by the members of the mob, who are witnesses in this case. Total 25 persons have been arrayed as accused in this case and only 15 have been arrested so far. The case is serious in nature as the mob had taken the law in its own hands and done to death the deceased, who was driving vehicle which met with accident. In these circumstances, all the applications be rejected.
8. In reply, it is submitted by Mr. K.M. Ansari, Sr. Advocate, that the lodger of FIR was not present on the spot, who came from another village situated at a distance of 35-40 km, and lodged false FIR implicating relatives of the persons who died in the accident.

9. In reply, it is submitted by the Mr. Awadh Tripathi, counsel that the identification of the persons, photos and videos are doubtful and the photos and video itself demonstrate that only two persons were seen assaulting the deceased.
10. Heard both the parties and perused the case diary.
11. The incident is this, that on 6.5.2019 deceased Prakash Bharti was driving the vehicle bearing registration No.CG-22H-8034 which collided with a motorcycle as a result of which two persons died. Soon after the incident, the relatives of the deceased and other persons gathered on the spot and they assaulted deceased Prakash Bharti with hands, fists, kicks, belt & clubs causing injuries to him because of which he went unconscious. Said Prakash Bharti died during the course of treatment on 7.5.2019. When the police personnels of police-station Birra came to maintain the law and order situation, they were also assaulted by the members of mob. Hence, the offence has been registered against all the persons concerned.
12. On perusal of the diary statements of the eyewitnesses, it is found that all these applicants have been named as the persons who have participated in the assault made upon deceased Prakash Bharti. It is a case of mob lynching, which is now viewed seriously. Therefore, in the given facts and circumstances of this case, at this stage I am not inclined to grant bail to any of the applicants, either regular or anticipatory.
13. Accordingly, all the regular and anticipatory bail applications of the respective applicants are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge