

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4242 of 2019

Janakram @ Jhanakram S/o Bodhram Aged About 36 Years Caste Nishad, R/o Village Bilaigarh, Police Station Chandrapur, District Janjgir - Champa Chhattisgarh.

---- Applicant

Versus

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

---Respondent

And

MCRC No. 4356 of 2019

Ram Ratan S/o Sarthi Rana Aged About 45 Years Caste Nishad , R/o Bilaigarh Police Station Chandrapur, District Jangir - Champa Chhattisgarh.

---- Applicant

Versus

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

---- Respondent

For applicants - Shri Ishwar Jaiswal, Advocate.
For Respondent/State – Ms. Smitha Ghai, PL.
For objector- Shri Vijay Kumar Sahu, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

09/07/2019

1. Both these third bail applications are decided by this common order as they are arising of the same crime number.
2. These are the third bail applications under Section 439 of Cr.P.C. The first bail applications were dismissed on 20/09/2016 vide M.Cr.C. Nos.5616 & 5621 of 2016. The second bail applications were dismissed as withdrawn on 21/07/2017 vide M.Cr.C. Nos.3379 & 3411 of 2017.
3. The applicants have preferred these applications for grant of bail as they are arrested in connection with Crime No.32/2016 registered in

Police Station Chandrapur, District Janjgir-Champa (C.G.) for offence punishable under sections 302, 120-B/34 of IPC.

4. As per the prosecution case, one Shyam Gopal was murdered on 24/04/2016. The offence was registered on the report of son of deceased and primary allegations are attributed to Ramu Nishad and others as the dispute took place for distribution of water in the field and as such Shyam Gopal was murdered.

5. Learned counsel for the applicants submits that one of the main co-accused Ramu Nishad has been enlarged on bail by the Supreme Court on 2nd May, 2017 in Criminal Appeal No.833/2017 and thereafter the coordinate bench of this court has enlarged Labho Nishad on bail on 21/03/2018 vide M.Cr.C. No.486/2018. He submits that evidence of all the witness have been closed and only because of one IO who has not turned up in sessions trial of Labho Nishad for 1 ½ years, applicants are languishing in jail. He submits that case of the applicants are similar to that of the person who has been enlarged by the Supreme Court as no eye witness present, only on the basis of the recovery under Section 27 of the Evidence Act, the applicants have been made accused, therefore the applicants may be released on bail.

6. Learned State counsel opposes the prayer for grant of bail.

7. Perused the order dated 2nd May, 2017 passed by the Supreme Court in Criminal Appeal No.833 of 2017. Primarily bail has been granted to accused Ramu Nishad. Taking into custody of said accused Ramu Nishad and the recovery memo recorded under section 27 of the Evidence Act, taking into such fact and the applicants are in jail since 27/04/2016, this court is inclined to release the applicants on bail.

8. Accordingly, the bail applications are allowed and it is directed

that the applicants shall be released on each of them furnishing a personal bond for a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of concerned trial court for their regular appearance before it as and when directed.

Sd/-

(Goutam Bhaduri)

JUDGE