

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6956 of 2018**

1. Mahetaru Manhare S/o Patiram Manhare, aged about 47 years Village Kaithi, Thana & Tahsil Bhatapara (Rural), District Balodabazar-Bhatapara (C.G.).
2. Paleshwar Manhare S/o Mahetaru Manhare Village Kaithi, aged about 23 years, Thana & Tahsil Bhatapara (Rural), District Balodabazar-Bhatapara (C.G.).

--- Applicants**Versus**

State of Chhattisgarh, Through Thana Bhatapara (Rural), District Balodabazar Bhatapara (C.G.)

---- Respondent

For Applicant	:	Mr. Naveen Nirala, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**07/01/2019**

1. The Applicants have preferred this First bail application under Section 439 of the Cr.P.C for grant of regular bail as they are arrested in connection with Crime No. 146/2018 registered at Police Station Thana Bhatapara (Urban), Distt. Balodabazar (C.G.) for the offence punishable under Sections 302, 201 & 34 of the Indian Penal Code.
2. In this case, the Applicants are neighbour of Deceased Bhagwan Das. As per prosecution story, on 16/09/2017 at about 8:00 pm, the Deceased left his house without telling anyone. On the next morning, his dead-body was found near over bridge of Ram Sagar para. Merg was lodged by Bhagwani. During course of investigation, statement of Bhagwani and Rinki, wife of the Deceased have been recorded. In the

statement, Rinki disclosed the fact that there was enmity between the Applicants and the Deceased. In the night of 16/09/2017, when her husband left the house, she saw that three persons were going on a motor-cycle in front of her house, wherein the person sitting in between them was looking like his husband. It is also alleged that both the Applicants were present with the Deceased. During course of investigation, on the basis of memorandum statement of accused persons, one big stone was seized. On being examination, blood stains was found on the seized stone. Offence has been registered and the Applicants have been taken into custody on 26/05/2018.

3. Learned counsel appearing on behalf of the Applicants submits that the Applicants are innocent and have been falsely implicated in the present case. Rinki, in her statement recorded under Section 161 Cr.P.C, has only disclosed the fact that she has only seen three persons going on a motor-cycle, wherein the person sitting in between them was looking like his husband, but she has not disclosed the fact that the other two persons were the accused persons, therefore, the last-seen theory is not established prima-facie. He further submits that the incident happened on 16/07/2017 and FIR has been lodged on 26/07/2018 and the delay has not been explained. He further submits that though the seized stone contained blood stains, there is no Serologist report which say that the blood stains found on the stone was of human being. He prays that the Applicants are in jail since 26/05/2018 and trial will take time, therefore, they may be released on bail.
4. Counsel appearing on behalf of the State also opposes the bail

application.

5. I have heard learned counsel for both the parties.
6. Considering the entire facts and circumstances of the case, particularly the evidence collected by the prosecution, without further commenting on merit of the case, I am inclined to release the Applicants on bail.
7. Accordingly, the bail application is allowed.
8. It is directed that the Applicants shall be released on bail on their executing a personal bond for a sum of Rs. 20,000/- with one surety for the like amount to the satisfaction of the trial Court for their appearance before the said Court, as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul