

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7355 of 2018**

1. Shastri @ Munna Miri, aged about 45 years S/o Baijnath Miri,
 2. Dinesh Miri S/o Baijnath Miri, aged about 35 years,
- Both R/o Jarhagaon, District Mungeli (C.G.).

--- Applicants**Versus**

State of Chhattisgarh, Through the Station House Officer, Police Station Jarhagaon, District Mungeli (C.G.)

---- Respondent

For Applicants	:	Mr. C.K. Kesharwani, Advocate
For Respondent	:	Mr. Adil Minhaj, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****02/01/2019**

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. 103/2018 registered at Police Station Jarhagaon, District Mungeli (C.G.) for the offence punishable under Sections 294, 323, 506, 302, 147, 148, 149 & 34 of the IPC.
2. As per prosecution story, on the date of incident the Applicants along with other co-accused persons namely Baiju @ Baijnath Miri, Dhanesh Miri and Mahesh @ Badaiya Miri had formed an unlawful assembly and then abused, threatened and assaulted Devsai and Sonsai with clubs. In this incident, Sonsai suffered fatal injury and died during course of treatment. A report was made by Devsai. On the basis of said report, offence has been registered and the Applicants have been taken into custody on 28/04/2018.

3. Learned counsel for the Applicants submits that the Applicants are innocent and have been falsely implicated. He further submits that on the basis of material available on record, no prima-facie case under Section 302 of the IPC is made out against the Applicants. He further submits that virtually the Complainant has also assaulted the Applicants and due to that, they have also sustained injuries. A report in this regard was also made by Applicant No. 2 Dinesh and on the basis of said report, offence has been registered against Devsai. He further submits that the incident occurred on 22/04/2018 at about 10:00 pm and injured Sonsai was immediately examined in the intervening night of 22-23rd of April, 2018 itself. At that time, doctor opined that the Deceased sustained only simple injuries. Thereafter, on 24/04/2018, the Deceased was admitted in hospital and during course of treatment on 26/04/2018, he died. He further submits that other co-accused persons namely Baiju @ Baijnath Miri S/o Late Shri Shivdayal Miri, Dhanesh Miri and Mahesh @ Badaiya Miri have already been granted benefit of anticipatory bail vide order dated 11/09/2018 passed in MCRCA No. 984/2018 by this Court, therefore, the Applicants may also be granted benefit of bail.
4. Counsel appearing on behalf of the State also opposes the bail application and submits that on the basis of material available on record, prima-facie offence under Section 302 IPC is made out against the Applicants. The Deceased sustained injuries on his vital part, due to which he died. In these circumstances, the bail application may be rejected.
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 and further considering the medical report of the Deceased and that other co-accused persons have already been granted benefit of anticipatory bail, 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 each of them executing a personal bond for a sum of Rs. 20,000/- with one surety of the like sum to the satisfaction of the trial Court for their appearance before the said Court, as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge