

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9580 of 2018

1. Shahil Singh Thakur @ Sakku S/o Shri Dhannu Singh Thakur Aged About 19 Years R/o Ward No. 13, Near Vijay Hotal, Nayapara, Sirgitti, Police Station- Sitgitti, District- Bilaspur, Chhattisgarh.
2. Ezaaz Yasini @ Aju Khan S/o Shri Naseem Yasini Aged About 20 Years R/o Nayapara, Sirgitti, Near Old Nagar, Police Station- Sitgitti, District- Bilaspur, Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh Through Station House Officer, Police Station- Sirgitti, District- Bilaspur, Chhattisgarh.

---- Respondent

MCRC No. 375 of 2019

- Vishal Dewangan @ Bisu S/o Kanhaiya Dewangan Aged About 19 Years R/o Naya Para, Durga Mandir, Near House Of Rajendra Thakur Sirgitti, Police Station Sirgitti, District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sirgitti, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

MCRC No. 9583 of 2018

- Rajkumar Mishra @ Vicky Mishra S/o Shri Ram Mishra Aged About 19 Years R/o Ward No. 13, Nayapara, Sirgitti, Police Station- Sirgitti, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station- Sirgitti, District- Bilaspur, Chhattisgarh.

---- Respondent

MCRC No. 9639 of 2018

- Pintu @ Gejo S/o Shri Mohit Garun Aged About 19 Years R/o Ward No.

13 ,near Electricity Office ,nayapara Sirgitti Police Station Sirgitti District
Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through S.H.O. of Police Station Sirgitti, District Bilaspur, Chhattisgarh.

---- Respondent

For Applicants (In MCRC No. 9580/2018)	: Shri Dheerendra Pandey, Adv.
For Applicant (In MCRC No. 375/2019)	: Shri Amit Singh, Advocate.
For Applicant (In MCRC No. 9583/2018)	: Shri Dheerendra Pandey. Adv.
For Applicant (In MCRC No. 9639/2018)	: Shri Dheerendra Pandey, Adv.
For Respondent/State	: Shri K.K. Dewangan, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

06/03/2019

1. Heard.
2. Since all cases arise out of same Crime No., therefore, they are being disposed of by this common order.
3. The Applicant (in MCRC No. 375/2019) has preferred the first bail application whereas the Applicants (in MCRC No. 9580 of 2018, MCRC No. 9583 of 2018, MCRC No. 9639 of 2018) have preferred their second bail applications under Section 439 of Cr.P.C. for grant of regular bail as they are arrested in connection with crime No. 231/2018, registered at Police Station – Sirgitti, District – Bilaspur, (C.G.) for the offence punishable under Sections 147, 148, 149, 302 of the Indian Penal Code.
4. First bail applications of the Applicants in MCRC No. 9580 of 2018; MCRC No. 9583 of 2018; MCRC No. 9639 of 2018 have been dismissed for want of prosecution vide order dated 22.11.2018 passed in MCRC No. 6180/2018, MCRC No. 5903/2018 and MCRC No. 6045/2018 respectively.

5. In this case, there are total seven accused persons and the name of the deceased is Vivek Kumar. On 24.06.2018 at about 2:25 mid-night, mereg intimation and FIR was been lodged by Dev Kumar Dhruw against seven persons including the present Applicants stating therein that he alongwith one Trilok and Vivek (deceased) were roaming, when they reached near Vijay Hotel, Nayapara, allegedly some quarrel took place between the present Applicants, other co-accused persons and Complainant Dev Kumar, Vivek (deceased) and Trilok. Allegedly, co-accused Subham @ Ashish, who is a juvenile, assaulted the deceased in his back with knife. The present Applicants also assaulted the deceased with hand and fist due to which the Vivek (deceased) died. During course of investigation, on the basis of the memorandum statement of the co-accused Subham @ Ashish, one knife and clothes having blood stain on it have been seized from his possession and on the basis of memorandum statement of Applicant Raj Kumar Mishra @ Vicky Mishra, one belt has been seized from his possession. The present Applicants were taken into custody on 24.06.2018.
6. Learned Counsel appearing on behalf of the Applicants submits that the Applicants are innocent and have been falsely implicated in the case due to some previous enmity. They further submit that eye-witnesses namely (PW-1) Dev Kumar, (PW-3) Kapur Das and (PW-4) Trilok Singh have been examined before the Trial Court and they have not stated anything against the present Applicants. As stated by them, only co-accused Subham @ Ashish assaulted the Vivek (deceased) with knife and committed the murder of the deceased. Even, the eye-witnesses denied the fact that the present Applicants were present at the time of incident and that some incident took place. They further submit that seizure witnesses of belt have also been examined and they have not supported the case of the prosecution and turned hostile. Also, no blood stain was found on the belt. Thus, there is no any evidence against the Applicants. They are in custody since 24.06.2018 and trial is likely to take some time. Therefore, they may be released on bail.

7. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
8. I have heard learned Counsel for the parties and perused the case diary.
9. Considering the facts and circumstances of the case, the evidence collected by the prosecution and further considering the fact that eye-witnesses namely (PW-1) Dev Kumar, (PW-3) Kapur Das and (PW-4) Trilok Singh and seizure witnesses namely (PW-4) Trilok Singh and (PW-6) Girdhari Singh have not supported the case of the prosecution and turned hostile, the Applicants are in custody since 24.06.2018 and trial is likely to take some time, without further commenting on merits of the case, I am inclined to release them on bail.
10. Accordingly, the bail applications are allowed.
11. 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 solvent surety for the like amount to the satisfaction of the concerned Trial Court for their appearance before the said Court as and when directed.

Sd/-
(Arvind Singh Chandel)
Judge