

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7677 of 2019**

1. Tilakram Alias Pintu, S/o Kamalnarayan Sahu Aged About 19 Years R/o Shyama Prasad Mukherjee, Bhatapara, P. S.Bhatapara (City), District Balodabazar-Bhatapara, Chhattisgarh.
2. Rohan Kashyap S/o Ganga Prasad Kashyap Aged About 20 Years R/o Shyama Prasad Mukherjee, Bhatapara, P. S.Bhatapara (City), District Balodabazar-Bhatapara, Chhattisgarh.

---- Applicants**Versus**

- State of Chhattisgarh Through The Police Station Bhatapara (City), District Balodabazar-Bhatapara, Chhattisgarh.

---- Respondent

For Applicants : Ms. Supriya Upasane, Advocate.
For Respondent/State : Shri Anand Verma, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**09/12/2019**

1. The applicants have preferred this second bail application under Section 439 of Cr.P.C. for grant of regular bail as they are arrested in connection with crime No. 166/2019, registered at Police Station – Bhatapara (City), District – Balodabazar-Bhatapara, Chhattisgarh, for the offence punishable under Sections 302, 201, 34 of IPC.
2. First bail application was earlier dismissed as withdrawn with liberty to revive the same after examination of the eye-witnesses namely Suryakant Verma, Rupesh, Rajkumari Nishad and Dr. M. Nirala.
3. As per the prosecution story, on 20.03.2019 around 11:30 pm, when

deceased Shiv Kumar alongwith his friend Jitendra Sahu were going for *Holika Dahan*, at that time applicants committed mar-pit, using hand, fists, kick and also thrashed him against wall as a result of which he sustained grievous on vital parts of his body like head, stomach etc. During course of treatment, on 02.04.2019 deceased Shiv Kumar died. Thereafter, matter was reported and offence was registered. Applicant was taken into custody on 19.04.2019.

4. Learned Counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the case. He further submits that, *prima facie*, no offence under Section 302 of I.P.C. can be made out against present applicants. Both eye-witnesses Suryakant Verma and Rupesh have already been examined and they have not supported the case of the prosecution. Ramkumari i.e. wife of the deceased has also been examined and from her statement, it appears that prosecution does not get any support. He further submits that there is no evidence available on record against applicants, and applicant is in jail since 19.04.2019, therefore, it is prayed that they may be released on bail.
5. Per contra, learned Counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties and perused the case diary and gone through the statements of prosecution witnesses namely Suryakant Verma, Rupesh, and Rajkumari Nishad.
7. Considering the facts and circumstances of the case, the evidence

collected by the prosecution and further considering the fact that though Suryakant and Rupesh have not supported the case of the prosecution but Rupesh has categorically stated that on the date of incident, quarrel took place between applicants and deceased Shiv Kumar and the said statement was not rebutted during his cross-examination, also, Rajkumari has deposed that, in the oral dying declaration, deceased has stated that both the applicants have committed mar-pit with him, therefore, without further commenting on other merits of the case, I am not inclined to release the applicants on bail.

8. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
Judge