

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 701 of 2020**

1. Narayan Nishad S/o Kunwar Singh Nishad Aged About 50 Years R/o Village - Mirgi, Thana - Bhatapara (Gramin), District - Baloda Bazar - Bhatapara Chhattisgarh.
2. Bhudhyarin Bai W/o Narayan Nishad Aged About 48 Years R/o Village - Mirgi, Thana - Bhatapara (Gramin), District - Baloda Bazar - Bhatapara Chhattisgarh.

---- Petitioners**Versus**

- State Of Chhattisgarh Through The Police Station- Bhatapara (Gramin), District - Baloda Bazar - Bhatapara Chhattisgarh.

---- Respondent

For Applicants	:	Shri Deepak Jain, Adv.
For Respondent	:	Shri Anurag Verma, P.L.

Hon'ble Smt Justice Rajani Dubey**Order on Board****16/03/2020**

1. The applicants have preferred this first bail application under Section 439 of the Code of Criminal Procedure for grant of regular bail as they are arrested in connection with Crime No.446/2019, registered at Police Station - Thana - Bhatapara (Gramin), District Baloda Bazar-Bhatapara (C.G.) for the offence punishable under Section 302 read with section 34 IPC.
2. The prosecution story, in brief, is that the complainant and her husband deceased are divyang. The complainant made a report alleging therein that on 20.10.2019 at about 10.30 AM, when her husband was sitting on Vishwakarma bandstand near the house, upon hearing the voice of her husband '*bachao bachao*' she came out of her house and saw the accused/applicants and other co-accused Goutam Nishad assaulting her husband with axe. Her husband was lying

there in bloodbath and the accused/applicants and other co-accused person, after assaulting him, fled away from the spot. Based on this, the offence has been registered. The present applicants have been taken into custody on 20.10.2019.

3. Learned counsel for the applicants submits that the applicants are innocent and have been falsely implicated in the case. He further submits that no seizure has been made by the present applicants, whereas axe has been recovered from the possession of other co-accused namely Goutam Nishad. He also submits that the main allegation is against co-accused Goutam Nishad. It is also submitted that the applicants are in custody since 20.10.2019, charge sheet has been filed and there is no likelihood of their case being decided in near future. Therefore, they may be released on bail.
4. On the other hand, learned counsel for the State opposed the bail application. Learned State counsel submits that there is eye-witness to the incident i.e. wife of deceased who has categorically stated in her statement that her husband was done to death by the accused/applicants including the other accused namely Goutam Nishad.
5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the totality of the facts and circumstances of the case, quality of evidence and further considering the fact that the main allegation is against Goutam Nishad, the present applicants are in custody since 20.10.2019, charge sheet has been filed and the trial is likely to take some time, without further commenting on merits of the case, I am inclined to release them 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.25,000/- each with one solvent surety for the like amount to the satisfaction

of the trial Court for their appearance before the said Court
as and when directed, till the final disposal of the trial.

Certified copy, as per rules.

Pekde

Sd/-
(Rajani Dubey)
Judge