

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 327 of 2020**

1. Khilesh son of Shiv Kumar Nirmalkar, aged about 23 years.
2. Dinesh son of late Ramesh Kumar Nirmalkar, aged about 56 years,
3. Khileshwar son of Shiv Kumar Nirmalkar, aged about 27 years,
4. Sunil Verma son of Panchram Verma, aged about 24 years,
All R/o village Navagaon (Muneda), Police Station and
Tahsil Khairagarh, District Rajnandgaon (C.G.)

---- Applicants**Versus**

- State of Chhattisgarh Through : The Station House Officer,
Police Station Khairagarh, District Rajnandgaon (C.G.)

---- Respondent**And****MCRC No. 1048 of 2020**

1. Vikash @ Chhotu S/o Santosh Nirmalkar, aged about 22 years.
2. Dhanendra @ Buntty S/o Santosh Nirmalkar, aged about 20 years.
Both R/o village Nawagaon (Muteda), Police Station and Tahsil
Khairagarh, District Rajnandgaon (C.G.)

---- Applicants**Versus**

- State of Chhattisgarh Through : The Station House Officer,
Police Station Khairagarh, District Rajnandgaon (C.G.)

---- Respondent**And****MCRC No. 760 of 2020**

- Santosh S/o Amrut, aged about 40 years, R/o village
Navagaon, Police Station & Tehsil Khairagarh, District
Rajnandgaon (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh Through : The Police Station Khairagarh,
District Rajnandgaon (C.G.)

---- Respondent

And

MCRC No. 1008 of 2020

- Narayan Yadav S/o Tulsi Yadav, aged about 70 years, (wrongly mentioned in the rejection order as '65 years'), R/o village Muteda Nawagaon, P.S. & Tahsil Khairagarh, District Rajnandgaon (C.G.)

---- Applicant

Versus

- State of Chhattisgarh Through : The Police Station Khairagarh, District Rajnandgaon (C.G.)

---- Respondent

And

MCRC No. 558 of 2020

- Tibhu Verma S/o Asharam Verma, aged about 21 years, R/o Village Navagoan, Police Station & Tahsil Khairagarh, District Rajnandgaon (C.G.)

---- Applicant

• **Versus**

- State of Chhattisgarh Through : The Police Station Khairagarh, District Rajnandgaon (C.G.)

---- Respondent

For Applicants.	:	Shri T.K. Jha, Shri B.D. Guru with Shri S.S. Baghel and Shri Hemant Kesharwni, Advocates for respective applicants.
For Respondent.	:	Shri H.S. Ahluwalia, Dy. A.G.
For Objector	:	Shri Purnendra Khichariya, Advocate

Hon'ble Smt. Justice Rajani Dubey

Order on Board

30/06/2020

1. Since the aforesaid bail applications arise out of the same crime number, they are being disposed of together by this common order.
2. The applicants have filed these first bail applications under

Section 439 of the Code of Criminal Procedure for grant of regular bail as they are arrested in connection with Crime No.413/2019 registered at Police Station : Khairagarh, District Rajnandgaon (C.G.) for the offence punishable under Sections 147, 148, 307 IPC in MCRC No.327/2020, Sections 147, 148, 149 & 302 IPC in MCRC Nos.1048/2020, 760/2020, and 1008/2020 & Sections 147, 148, 307 IPC in MCRC No.558/2020.

3. The prosecution story, in brief, is that complainant Smt. Nasam Verma lodged a report in the police station to the effect that on 29.10.2019, deceased Kamal Verma along with his friend Umesh went to village Nawagaon from Muteda for celebrating Laxmi Pooja immersion (visarjan). At about 3.00 pm, one Durjan intimated the complainant over telephone that Khilesh, Khileshwar, Vikas, Dinesh, Sunil, Dhanraj Verma and others assaulted Kamal Verma on account of previous animosity. On the basis of said report, the police registered the offence and recorded the statement of eye-witnesses. Initially, Kamal Verma received severe injuries on his head and admitted to Govt. Hospital, Khairagarh and thereafter he was referred to Raipur in a private hospital and during the course of treatment Kamal Verma died. Based on this, the offence has been registered. The applicants in MCRC No.327/2020 are in custody since 30.10.2019, in MCRC Nos.1048/2020 and 760/2020 are in custody since 15.01.2020, in MCRC No.1008/2020 the applicant is in custody since 25.01.2020 & in MCRC No.558/2020 the applicant in custody since 30.10.2019.
4. Shri T.K. Jha, counsel for the applicants in MCRC No.327/2020 and applicant No.1-Vikash @ Chhotu in MCRC No.1048/2020 submits that he wants to withdraw bail applications in respect of the above applicants.
5. In view of aforesaid, the bail applications in respect of applicants in MCRC No.327/2020 and applicant No.1- Vikash @ Chhotu in MCRC No.1048/2020 are dismissed as withdrawn.

6. Now, the bail applications in respect of applicant No.2-Dhanendra @ Buntty in MCRC No.1048/2020 and applicants in MCRC Nos.760/2020, 1008/2020 and 558/2020 are being heard.
7. Shri T.K. Jha, learned counsel for the applicant No.2-Dhanendra @ Buntty in MCRC No.1048/2020 submits that the present applicant has been falsely implicated in the case. He further submits that in 164 CrPC statement of one Umesh Singh, who is alleged to have seen the incident, there is no mention of name of applicant No.2-Dhanendra @ Buntty, rather the people of other village have assaulted the deceased. He further submits that the deceased was a gangster and he used to play with the dignity of women of village. He also submits that the deceased died after 20 days of the alleged incident. It is next submitted that the applicant is in jail since 25.01.2020 and there is no likelihood of his case being decided in near future and, therefore, he may be released on bail.
8. Shri B.D. Guru, learned counsel appearing for the applicants in MCRC Nos.760/2020 and 1008/2020 and Shri Hemant Kesharwani, learned counsel appearing for the applicant in MCRC No.558/2020 jointly submit that the name of applicants do not find place in FIR and the applicants have been implicated in the crime in question only on the basis of 164 CrPC statement of Umesh Singh, who is alleged to have seen the incident. They further submit that the applicants are in custody for more than six months and there is no likelihood of their case being decided in near future, therefore, they may be released on bail.
9. On the other hand, State counsel opposing the bail application submits that there is eye-witness to the incident namely Umesh Singh who has categorically named the applicants in his statement recorded under Section 161 CrPC and the named FIR was lodged by the father of the deceased, who is not the eye-witness to the incident.
10. Shri Purnendra Khichariya, learned counsel for the objector

formally opposed the bail applications.

11. I have heard learned counsel for the parties and perused the record.
12. Considering the totality of the facts and circumstances of the case, quality of evidence, and further considering the fact that the applicants are in custody for more than six months and the trial is likely to take some time, without further commenting on merits of the case, I am inclined to release the applicants on bail.
13. Accordingly, the bail applications in respect of applicant No2-Dhanendra @ Buntty in MCRC No.1048/2020 and applicants in MCRC Nos.760/2020, 1008/2020 and 558/2020 are allowed.
14. It is directed that the applicant No.2-Dhanendra @ Buntty in MCRC No.1048/2020 and applicants in MCRC Nos.760/2020, 1008/20 and 558/2020 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.
15. It is made clear that if the applicants have already been released on bail pursuant to the bail bonds already furnished in view of the order passed by the High Power Committee constituted in compliance of the order of the Supreme Court of India dated 23.03.2020 in the matter of **In Re : Contagion of COVID 19 Virus in Prisons** (Suo Moto Writ Petition (c) No. 1/2020), they need not furnish bail bonds afresh and the bail bonds already furnished shall be deemed to be the bail bonds furnished in compliance of the order of this Court, but if they have not furnished the bail bonds earlier, then they will be required to furnish bail bonds within four weeks from today.
16. Certified copy, as per rules.

Sd/-

(Rajani Dubey)
Judge