

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.1277 of 2020**

1. Rajpal Uday S/o Sumer Singh, Aged About 50 Years By Caste Gond, R/o. Panchhipara, Karimati, P.S. Pasan, Tahsil Pondi Uroda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
2. Maghai Singh S/o Sumer Singh, Aged About 38 Years By Caste Gond, R/o. Panchhipara, Karimati, P.S. Pasan, Tahsil Pondi Uroda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
3. Mahip Singh S/o Sumer Singh, Aged About 29 Years By Caste Gond, R/o. Panchhipara, Karimati, P.S. Pasan, Tahsil Pondi Uroda, District Korba Chhattisgarh., District : Korba, Chhattisgarh
4. Tirath Singh, S/o Mahipal Singh, Aged About 22 Years By Caste Gond, R/o. Panchhipara, Karimati, P.S. Pasan, Tahsil Pondi Uroda, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Petitioners**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Pasan, District Korba Chhattisgarh., District : Korba, Chhattisgarh

---- Respondent

For Applicants: Shri Govind Ram Miri with Shri Basant Kaiwartya, Advocate
 For Respondent/State: Shri Ravish Verma, Govt. Advocate

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****23/03/2020**

Heard.

1. The applicants have moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.40/2019 registered at Police Station Pasan, District Korba for the offence punishable under Section 302, 147, 148 & 149 of IPC. The applicants were arrested on 20-04-2019.
2. Case of the prosecution is that the deceased-Maniram was having illicit relation with one Indrakali. Prosecution case is that when the deceased was found with Indrakali in her house, the applicants assaulted him, due to which, the deceased suffered several injuries and succumbed to death.

3. Learned counsel for the applicant submits that the prosecution case is based only on unreliable and shaky evidence and oral dying declaration given by the daughter of the deceased namely Sunita Uday. He would submit that in the FIR as well as in the case diary statement recorded under Section 161 of Cr.P.C. and what has been stated in the Court, are contradictory to each other. He would submit that there is no connecting evidence to prove involvement of the applicants in the alleged commission of offence.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that involvement of the applicants is based on oral dying declaration given by none other than the daughter of the deceased, who has clearly stated that her father was brought in injured condition, which shows involvement of the applicants as offenders. He would further submit that strong motive is made out from the statement of Sunita Uday as also number of prosecution witnesses have stated that the deceased was having illicit relations with Indrakali and Rajpal and Maghai Singh are brother-in-law of Indrakali and Mahip Singh and Tirath Singh are the persons, who are said to have brought the body of the deceased, which was seen by her daughter-Sunita Uday.

5. Having considered the submission of learned counsel for the parties and having perused the case diary, prima facie, when the FIR was lodged, the statement of Sunita was that his father was brought in injured condition by Mahip Singh and Tirath Singh and gave oral dying declaration that he has been assaulted by Rajpal and Maghai Singh. In the FIR, name of Mahip Singh and Tirath Singh, as the person assaulting Maniram, has not been stated. In the case diary statement recorded under Section 161 of Cr.P.C., Sunita Uday had levelled allegations of assaulting her father-Manipal, was only against Rajpal and Maghai Singh. Applicants-Mahip Singh and Tirath Singh are said to be involved in this case on the basis that they had brought Maniram in injured condition.

6. Taking into consideration the aforesaid submissions and material on record, without commenting upon the merits of the case, particularly taking into consideration the statement of Sunita Uday and contents of FIR and the submission that involvement of applicants-Mahip Singh and Tirath Singh in the alleged commission of offence is not made out, I am inclined to allow the bail application on behalf of applicants-Mahip Singh and Tirath Singh. However, the bail application on behalf of applicants-Rajpal and Maghai Singh is rejected.

7. Accordingly, the bail application on behalf of applicants-Mahip Singh and Tirath Singh is allowed. It is ordered that the applicants-Mahip Singh and Tirath Singh shall be released on bail on each of them furnishing a personal bond of Rs.25,000/- along with two surety of the like amount to the satisfaction of the concerned trial Court on the condition that they shall appear before the trial Court regularly on each and every date of hearing, unless exempted.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
J U D G E