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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3028 of 2020

- Manohar Cherwa @ Mano and Anr. S/o Meghan Ram Cherwa (Wrongly Written As Medhan) Aged About 55 Years R/o Village Badki Mahari, Police Station Balrampur, District Balrampur – Ramanujganj (C.G.)
- Chandani D/o Manohar Ram Cherwa Aged About 23 Years R/o Village Badki Mahari, Police Station Balrampur, District Balrampur - Ramanujganj, Chhattisgarh.(C.G.)
---- Applicants

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Balrampur, District Balrampur - Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant/s	:	Shri Ram Narayan Sahu, Advocate
For Respondent	:	Shri Ravish Verma, G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24/08/2020

1. Heard on application for grant of bail.
2. The applicants have been arrested on 11.07.2018, on the allegation of having committed offence under Sections 302, 294, 506, 323, 34 of Indian Penal Code. They moved this application for grant of bail in connection with Crime No.122/2018 registered at Police Station-Balrampur, District- Balrampur-Ramanujganj (C.G.).
3. Prosecution allegation is that when fight was going on in the agricultural field, the applicants came there, armed with weapons and started assaulting the deceased on various parts

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of his body including head, due to which, the deceased sustained certain injury, including fracture of frontal bone and later on, he died after two days.

4. Learned counsel for the applicant would argue that the prosecution case is false and fabricated. The applicants are not involved in the alleged commission of offence. They had no intention to cause death. The deceased intervened in the dispute but against him there was no dispute as such. He further submits that out of five stated eye witness, three have already turned hostile. The applicants have remained in jail for more than two years and as trial is not being held at present, the applicants may be granted bail. Especially praying for applicant No.2 Chandani. It is submitted that in almost similar circumstances, similarly situated co-accused, Jaspati has been granted bail by this Court in MCRC No. 3750 of 2019 vide order dated 23.07.2019.
5. On the other hand, learned State counsel would argue that present is a case of murder and though, some eye witness have turned hostile during their examination in the Court, two more eye witnesses namely Gharmila and Banmati are yet to be examined and in their diary statements they have stated that both Manohar and Chandani, who were armed with club assaulted the deceased.
6. As far as the prosecution case, against the two applicants Manohar and Chandni is based on eye witness account of as many as five eye witnesses. Though, three of them have been examined and they have not supported the prosecution case, two more eye witnesses namely

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Gharmila and Banmati are yet to be examined. True it is that the applicants have remained in jail for more than two years.

7. However, present is a case of heinous offence of murder. Therefore, when two more eye witnesses have not been examined as yet, present is not fit case for grant of bail to the applicants. Parity with Jasmati cannot be drawn because a perusal of bail order of Jasmati shows that she was granted bail, on the ground that she was not involved in assaulting the deceased.
8. In view of the above consideration, the bail applications are rejected. However, in case, the trial is not resumed within three months, it would be open for the applicants to revive bail applications.

Sd/-

(Manindra Mohan Shrivastava)

Judge