

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.3779 of 2020**

Hemant Nirmalkar S/o Shri Bhagvati Nirmalkar Aged About 21 Years
R/o Village And Post- Navagaon, Muteda, P.S. And Tahsil-
Khairagarh, District- Rajnandgaon, Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through District Magistrate, District-
Rajnandgaon, Chhattisgarh ---- **Respondent**

And**MCRC No.3773 of 2020**

Pardesh Yadav S/o Shri Khnhiya Yadav Aged About 22 Years R/o
Village And Post Navagaon, Muteda, Police Station And Tahsil
Khairagarh, District Rajnandgaon, Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through District Magistrate, District
Rajnandgaon Chhattisgarh --**Respondent**

And**MCRC No. 3771 of 2020**

Dulesh Yadav S/o Shri Premlal Yadav Aged About 22 Years R/o
Village And Post Navagaon, Muteda, P.S. And Tahsil Khairagarh,
District Rajnandgaon Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh Through District Magistrate, District
Rajnandgaon Chhattisgarh --**Respondent**

And**MCRC No. 3781 of 2020**

Rajesh @ Boddad Gond, S/o Late Shri Mangturam Gond, Aged About
40 Years R/o Village And Post Navagaon, Muteda, Police Station And
Tahsil Khairagarh, District - Rajnandgaon, Chhattisgarh ---- **Applicant**

Versus

State Of Chhattisgarh, Through District Magistrate, District -
Rajnandgaon Chhattisgarh ...**Respondent**

For Applicants	: Shri Shashi Bhushan Tiwari, Advocate
For Respondent/State	: Shri Rahul Jha, G.A.
For Objector	: Shri Avinash Chand Sahu, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

24/08/2020

Heard.

1. The applicants have been arrested in connection with Crime No.413 of 2019 registered at Police Station-Khairagarh, District Rajnandgaon (CG) for the alleged commission of offence under Section 302, 34 of IPC.
2. Prosecution case is that on 29.10.2019 during “visarjan” ceremony, the applicants and co-accused arrived at the spot, armed with weapon and started assaulting Kamal Verma. In the incident, Kamal Verma, sustained serious injuries, multiple in nature and died.
3. Learned counsel for the applicants would submit that as far as present applicants namely : Pardesh Yadav, Dulesh Yadav, Hemant Nirmalkar & Rajesh @ Boddad Gond are concerned, they have not been named in the FIR. In the 164 Cr.P.C. statement of main eyewitness Umesh, though these applicants are stated to have arrived at the place of incident, there is no specific allegation of these accused having committed any overtact. It is further argued that similarly situated co-accused namely Dhanendra @ Bunty, Santosh, Narayan Yadav, Tibhu Verma have been granted bail by this Court vide common order dated 30.06.2020 passed in M.Cr.C. No.327 of 2020, 1048/2020, 760/2020, 1008/2020 & 558/2020.
4. On the other hand, learned counsel for the State and Objector oppose the application for grant of bail by submitting that even though, the applicants in present applications may not have been specifically named in the FIR, eyewitnesses Umesh and Ishwar have named the applicants along with other co-accused as those, who arrived at the

spot, armed with lathi and opening assault along with the named accused in the FIR, on the deceased. It is submitted that bail applications of Khilesh, Dinesh, Khileshwar, Sunil Verma, Vikash @ Chhotu have already been rejected.

5. On prima facie considerations, it is found that the applicants have not been specifically named in the FIR. In 164 Cr.P.C. statement of witness Umesh though these applicants are stated to have arrived at the spot after sometime, there is no specific allegation of criminal overtact by these applicants. The other eyewitness Ishwar has stated in case diary regarding arrival of the present applicants and assault given by them.
6. In these circumstances, the allegations against the present applicants are similarly as far as other co-accused Dhanendra @ Bunty, Santosh, Narayan Yadav & Tibhu Verma are concerned. As Dhanendnra @ Bunty, Santosh, Narayan Yadav & Tibhu Verma have been granted bail by this Court, maintaining parity, I consider it appropriate to grant bail to the present applicants namely : **Pardesh Yadav, Dulesh Yadav, Hemant & Rajesh @ Boddad Gond** also. The cases of present applicants are different because those co-accused, whose bail applications have been rejected are specifically named in the FIR.
7. Consequently, the applications of aforesaid applicants are allowed.
8. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with one solvent surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:
 - (i) The applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
9. 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.

**Sd/-
(Manindra Mohan Shrivastava)
Judge**