

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5315 of 2020

1. Raju @ Lakshya Baghel S/o Shri Premal Baghel Aged About 27 Years R/o Village Bhunda, Police Station Kota, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh
2. Govinda Baghel S/o Shri Premal Baghel Aged About 23 Years R/o Village Bhunda, Police Station Kota, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Kota, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Respondent

For Applicants	:	Shri Nitesh Shrivastava, Advocate
For State	:	Shri Dinesh Tiwari, Dy. Govt. Advocate

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

Order On Board

16/10/2020

Heard.

1. The applicants are arrested in connection with Crime No.599/2019 registered in Police Station -Kota, District -Bilaspur (CG) for alleged commission of offence under Sections 302, 147, 148 IPC.
2. Case of the prosecution, in brief, is that the applicants and other co-accused assaulted one Ashish Pandey @ Banti due to which Ashish Pandey succumbed to death as a result of head injury.
3. Learned counsel for the applicants would submit that involvement of the present applicants in the said incident is false and fabricated. He would argue that the statement of eyewitness is not reliable because the other co-accused Akash, Sanjeev and Mithun in their memorandum statement have stated that

the deceased died because he fell from the vehicle. They have not admitted their guilt nor have stated regarding presence of the present applicants much less any overt act. He would next submit that the statement of other prosecution witnesses shows that the eyewitness and deceased were all friends and were involved in illegal activity in the village and, therefore, the eyewitness has definite motive to falsely implicate the present applicants. He would next submit that co-accused Premlal who is similarly situated as the present applicants has been granted bail by this Court vide order dated 20th July 2020 passed in MCRC No.3625 of 2020, therefore, the present applicants may be granted bail.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that the applicants have not only been named in FIR, but they have been named as one of the assailants in the case diary statement of eyewitness of the incident, which cannot be held doubtful on the basis of memorandum of the co-accused. He submits that grant of bail to co-accused Premlal was on the ground that he was not named in the FIR.
5. On prima facie considerations, it is found that the present applicants have not only been named in the FIR but the eyewitness have clearly stated regarding their involvement in the alleged incident of assault in which Ashish Pandey sustained head injury and died homicidal death. Therefore, a prima facie case is made out against the present applicants and considering the gravity of allegation, present is not a fit case for grant of bail.
6. The application is accordingly rejected.

Sd/-
(Manindra Mohan Shrivastava)
Judge