

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5732 of 2020**

1. Keshwar Prasad @ Pandit, S/o Thakur Prasad Rajwade, Aged About 40 Years, Caste- Rajwar.
2. Pappu Singh, S/o Mahadev, aged about 27 years, Caste- Gond.
Both are R/o Village Dalabakra (Baskar) Police Station- Jhilmili, Tehsil Bhaiyathan, District- Surajpur (C.G.)

---- Applicants**Versus**

State of Chhattisgarh, Through: Station House Officer, Police Station: Jhilmili, District- Surajpur (C.G.)

---- Respondent**With****M.CR.C. No. 5785 of 2020**

1. Shankar Prasad @ Bhole, S/o Bhaggu Ram Bargah, Aged About 20 Years. R/o Village Baskar, (Wrongly mentioned in Order Sheet Bastar), Police Station & Tahsil: Bhaiyathan, District- Surajpur (C.G.)
2. Pappu Singh, S/o Mahadev, Aged About 27 Years, Caste- Gond, R/o Village Dalabakra, Police Station- Jhilmili, Tahsil Bhaiyathan, District- Surajpur (C.G.)

---- Applicants**Versus**

State of Chhattisgarh Through: Police Station Jhilmili, District- Surajpur (C.G.)

---- Respondent

For Applicant : Mr. Arun Kumar Shukla, Advocate.
(In M.Cr.C. No. 5732 of 2020)

For Applicant : Mr. Dashrath Kushwaha, Advocate.
(In M.Cr.C. No. 5785 2020)

For Respondent/State : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board**

28/09/2020

1. Both the above bail applications are heard and decided together by this common order as they are arising out of the same crime number and the incident.
2. These are the third bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No. 57/2019, registered at Police Station – Jhilmili, District – Surajpur (C.G.) for the offence punishable under Section 147, 148, 149, 302 of the I.P.C.
3. The earlier bail applications filed by the applicants were dismissed on merits on 13.03.2020 in MCRC No. 1332 of 2020 and MCRC No. 1403 of 2020.
4. Learned counsel for the applicants submit that the applicants are in jail since 27.03.2019. A number of witnesses though have been examined, but they have not made any clear allegation against these applicants. The allegations are similar in nature against these applicants as well as co-accused Bihari Lal Singh, who has been granted bail by the Coordinate Bench vide order dated 10.08.2020 in MCRC No. 1372 of 2020. It is further submitted that there is likelihood of delay in conclusion of trial due to present pandemic situation, therefore, for this reason, it is prayed that these applicants be enlarged on bail.
5. On the other hand, learned counsel for the State opposes the bail

application submitting that applicant No. 2 in MCRC No. 5732 of 2020 is also applicant No. 2 in MCRC No. 5785 of 2020, therefore, one of his application will not be maintainable. It is further submitted that this Court has already rejected the bail applications of these applicants on merits making clear statement in the earlier order, on the basis of evidence. The ground of parity cannot be sole ground for grant of bail. Further, the eyewitnesses, who have been examined in the trial, have very clearly stated and alleged against these applicants, therefore, they are not entitled for grant of bail. Hence, both the applications for grant of bail may be rejected.

6. Heard counsel for both the parties and perused the records.
7. Considered on the submissions. On merits of the case, the applicants were not found entitled for grant of bail in the previous order itself, the applications cannot be considered on merits. Now, the only question arises whether the applicants have entitlement for grant of bail on the ground of parity for the reasons that one of the co-accused has been granted bail by the Coordinate Bench.
8. The single Bench of Allahabad High Court has decided Criminal ***Misc. Bail Application No. 2554 of 2019, Gajendra Singh vs. State of U.P.*** on ***23.07.2020***, in which reference has been made to the order passed by the Supreme Court in ***Rakesh Kumar Pandey vs. Munni Singh @ Mata Bux Singh & Anr., (SLP(Crl)***

No. 4059/2000 decided on 12.3.2001), in which the Apex Court had strongly denounced the order of the High Court granting bail to the co-accused on the ground of parity in a heinous offence. The order of *Rakesh Kumar Pandey (Supra)* was again quoted by the Allahabad High Court in case of **Ramesh and Ors. Vs. State of U.P. (Cr.A. No.528 of 1998), decided on 01.12.2020**, in which it was held that parity can not be the sole ground for granting bail. Therefore, in this scenario the ground of parity alone can not make the applicants entitled for grant of bail subsequent to passing of previous order, in which the applicants have not been found entitled for grant of bail on the basis of the merits of the case. Apart from that, in the heinous offence of murder, delay etc. cannot be considered as a ground for grant of bail, therefore, I am not inclined to grant regular bail to these applicants.

9. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. are rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge