

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.6019 of 2020

1. Bagar Sai S/o Dori, Aged About 52 Years R/o Village - Chadeshwarpur, Police Station Dhourpur District Surguja Chhattisgarh
2. Mahaveer S/o Budha, Aged About 50 Years R/o Village - Chadeshwarpur, Police Station Dhourpur District Surguja Chhattisgarh
3. Chamar Sai S/o Sukhram Aged About 35 Years R/o Village - Chadeshwarpur, Police Station Dhourpur District Surguja Chhattisgarh

----Applicants

Versus

State Of Chhattisgarh, Through, Station House Officer, Police Station - Dhourpur, District Surguja Chhattisgarh

---- Respondent

For Applicant	:	Shri Sanjay Pathak, Advocate
For Respondent/State	:	Shri Ravish Verma, G.A.

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

Order On Board

05/11/2020

Heard.

1. The applicant has been arrested in connection with Crime No.69 of 2019 registered at Police Station- Dhourpur, District Surguja (CG) for the alleged commission of offence under Section 294, 506(B), 323, 307, 147, 148, 149 of IPC.
2. Prosecution case is that at the time of grazing of cattle, a dispute arose and it is alleged that with intention to cause death, applicant Bagar Sai along with Mahaveer with the help of an axe, caused multiple injury on the head and frontal bone. The applicant Mahaveer and Chamar Sai are alleged to be involved in the said common lawful assembly to murder to cause death.
3. At the outset, learned counsel for the applicants seeks to withdraw the bail application of applicant No.1/Bagar Sai which is dismissed as withdrawn.
4. Learned counsel for the applicants would argue that the allegation of causing

axe injury is on Bagar Sai. He would submit that the dispute arose all of a sudden which is on account of grazing of cattle and in the incident of free fight, there were assaults made by the victim side also for which an FIR, prior in point of time, has been lodged from the applicants side. He would next submit that the applicants Mahaveer and Chamar are not alleged to have used axe so as to cause injury on Mahinath.

5. On the other hand, learned counsel for the State opposes the prayer and submits that the statement of main victim Mahinath and other victim shows that present all the accused started assaulting with intention to cause death therefore, irrespective of the weapon used by any particular accused, they all have been involved in the alleged commission of offence with the aid of Section 149 of IPC.
6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the allegation of giving assault of Mahinath with the help of axe is on Bagar Sai and further taking into consideration the manner in which, the dispute arose at the spot and that a counter case has also been registered, application of **applicant No.2/Mahaveer and applicant No.3/Chamar Sai** is allowed.
7. It is directed that the **applicants No.2/Mahaveer and applicant No.3/Chamar Sai** shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties 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.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge