

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 1011 of 2021

1. Omprakash, S/o Hiralal Aged About 35 Years R/o Village Khurushbod Saja, Chowki Khandsara, Police Station And District Bemetara Chhattisgarh.
2. Shivkumar S/o Punaram Sahu Aged About 47 Years R/o Village Paneka Chowki Dasrangpur, Police Station Pipariya, Tahsil and District Bemetara Chhattisgarh.

---- Applicants

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station Bemetara (Chowki Khandsara, District- Bemetara, Chhattisgarh.

---- Non-Applicant

For Applicants	:	Shri Sanjeev Kumar Sahu, Advocate
For Non-Applicant/State	:	Shri Ayaz Naved, G.A.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

22.06.2021

- 1) The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 17.11.2020 in connection with Crime No.707/2020 registered at Police Station- Chowki-Khnadara, District- Bemetara (C.G.) for the offence punishable under Section 302, 201, 120-B, 304, 363, 364 of I.P.C.
- 2) Case of the prosecution, in brief, is that on 16.11.2020 at 12 noon at village Boriya, Sahebudas Manikpuri who is Kotwar of the said village, informed the police that in the pond of the

village one burnt, swollen unknown dead body was floating, which was tied with a fencing pole of cement. Thereupon, Dehati Nalisi and merg were recorded and matter was investigated. During investigation, it was found that on 10.11.2020, complainant Kastur Sahu lodged missing report at Police Station Bemetara to the effect that his 13-14 years old son namely Baggu @ Aleshvar went out on 9.11.2020 at about 5.30 p.m. for playing but did not return. During investigation, the police came to know that the deceased Baggu @ Aleshvar had gone alongwith his friends namely Goutam, Dewa, Saagar to agricultural field of Saagar Sahu. In the said agricultural field father of Saagar Sahu/applicant- Omprakash Sahu was getting the Harvester run. After some time, the elder brother of Saagar Sahu namely Vikram Sahu started engine of tractor and reversed the tractor, however, Baggu @ Aleshvar accidentally got crushed by the said tractor. Thereafter, the applicant Om Prakash Sahu instead of providing medical treatment to Baggu @ Aleshvar, took him some other place and left him there. Later on, the applicant Om Prakash Sahu alongwith his brother-in-law i.e. applicant Shiv Kumar Sahu took Baggu @ Aleshvar on motorcycle at about 10-11 p.m. near the village pond, burned Baggu @ Aleshvar by pouring petrol on him and thereafter having tied him with cement fencing pole, threw the dead body into the pond.

- 3) Learned counsel for the applicants submit that the applicants have been falsely implicated in the crime in question. Learned counsel for the applicants further submit that whatever happened in the agricultural field was just an accident, there was no conspiracy, the applicants have no criminal antecedents, there is no likelihood of the applicants tampering with the prosecution evidence or absconding and as the applicants have been arrested on 17.11.2020,

charge-sheet has already been filed and due to Covid-19 trial is likely to take some time for its final disposal, the applicants be released on bail by this Court.

- 4) On the other hand, learned counsel for the respondent/State opposes the bail application, however, he submits that the applicants have no criminal antecedents.
- 5) Having heard learned counsel for the parties.
- 6) Having regard to the facts and circumstances of the case, injury found on the head of the deceased, material collected against the present applicants, probability that burn injury was not ante-mortem, there was no enmity between the applicants and complainant party prior to the incident, Devendra Yadav, Saagar Sahu who were present at the time of incident stated in their statements under Section 164 of Cr.P.C. that when deceased Baggu@ Aleshvar was trying to connect the trolley with the tractor he sustained injuries on his head and died on the spot itself, thus as per prosecution case the death was probably accidental, charge-sheet has already been filed, the detention period of the applicants, who are 35, 47 years old and the fact that the applicants have no criminal antecedents, there is no likelihood of the applicants tampering with the prosecution evidence or absconding as admitted by both the counsels and conclusion of trial may take some time, the application is allowed.
- 7) It is directed that in the event of each of the applicants executing a personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail on the following conditions:-

- (a) they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (b) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (c) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial,
- (d) they shall not involve themselves in any offence of similar nature in future,
- (e) they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

Sd/-
(Gautam Chourdiya)
Judge

Nadim