

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1609 of 2021**

- Chaman Namdev (Wrongly Mentioned As @ Akta Darjiwala In The Order Sheet) S/o Shri Rajesh Namdev Aged About 23 Years R/o Chantidih Near Sai Mandir Police Station Sarkanda District Bilaspur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Police Station Sarkanda District Bilaspur Chhattisgarh

---- Respondent

MCRC No. 2122 of 2021

- Shahrookh Ali @ Sharo Ali S/o Shri Sher Khan Aged About 25 Years R/o Mela Para Irani Mohalla Chantidih P.S. Sarkanda Tahsil And District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through S.H.O. Sarkanda, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

MCRC No. 3622 of 2021

- Iqbal Ali, S/o Sarwar Ali, Aged About 28 Years R/o Mela Para Irani Mohalla Chantidih Police Station Sarkanda Tahsil And District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through - S H O Sarkanda District Bilaspur Chhattisgarh.

---- Respondent

For Applicants : Shri Dharmesh Shrivastava and Shri
Dheerendra Pandey, Advocates

For Respondent/ State : Shri Rahul Jha, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

06/08/2021

1. All the cases are decided by this common order since they are arising out of common incident and common crime number.
2. These are first Bail Applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants in connection with Crime No. 994/2020 registered at Police Station- Sarkanda District Bilaspur, C.G. for the offence punishable under Sections 302, 307, 294, 323, 506 & 34 of IPC.
3. As per the prosecution case on 26.10.2020 one Chaman Namdev @ Akta Darjiwala went to the residence of Hasnen Ali and they were quarrellings on some issue in the meanwhile Juber Ali who is the deceased tried to intervene at that time Chaman Namdev @ Akta Darjiwala called his brother-in-law namely Iqbal Ali along. Thereafter, Iqbal Ali along with other co-accused namely Shahrookh Ali @ Sharo Ali, Siya Ali came and Iqbal Ali and Shahrookh Ali @ Sharo Ali assaulted the deceased with belt, thereafter Siya Ali stabbed Juber Ali (deceased) with knife and eventually he died on 14.11.2020.
4. Learned counsel for the applicant Chaman Namdev @ Akta Darjiwala

submits that he has no connection with the incident and one of his cousin is named as Akta Darjiwala, therefore for no fault of the applicant and further he was not even present at the spot, he has been arrested and it is further submitted that Jubar Ali (deceased) was initially admitted at CIMS and was discharged and shown as absconding and further was admitted in different hospital wherein it was stated that he fell down from the vehicle and sustained the injury therefore Chaman Namdev may be released on bail.

5. Learned counsel for Shahrookh Ali and Iqbal Ali submits that injury was given by Siya Ali and the present applicants were not at all involved and it was a sudden fight, therefore the applicants do not have any *mens rea* to commit the crime and for the simple reason that they were present at the crime scene they have been inculpated, therefore they may be enlarged on bail.
6. Per contra, learned State counsel opposes the prayer for grant of bail and read out the statement of Raziya Begam. He further submits that apart from Raziya Begam other eye witness were also present at the spot. He further reads out the 161 statement and submits that Chaman Namdev is named and there is no identity difference of Chaman Namdev and Akta Darjiwala and would submit that when the quarrel started at the instance of Chaman Namdev the other applicants Shahrookh Ali @ Shara Ali, Iqbal Ali and Ziya Ali inflicted the injury.
7. Considering the submission made and considering the 161 the statement and primarily the involvement of the applicants in commission of crime has been stated, at this stage during consideration of bail it cannot be stated that all of a sudden the incident was occurred and stab injury was inflicted by Siya Ali. Considering the over all role played by the applicants, it is a

matter of evidence during the trial to evaluate the role played by the applicants individually or jointly, therefore, I am not inclined to grant bail to the applicants.

8. Accordingly, the bail applications are dismissed.

Sd/-

Goutam Bhaduri
Judge

Jyoti