

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2414 of 2021

1. Gopi Rathiya S/o Laljeet Rathiya Aged About 19 Years,
 2. Tulsi Kumar S/o Jaipal Rathiya Aged About 19 Years,
 3. Sukh Singh S/o Dube Singh Rathiya Aged About 18 Years,
- All R/o - Ruwaful, Police Station- Kapu, District- Raigarh, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through- Police Station- Kapu, District- Raigarh, Chhattisgarh.

---- Respondent

For applicants - Shri Manoj Paranjpe and Shri Vivek Mishra, Advocates.
For Respondent/State – Shri Rahul Jha, G.A

Hon'ble Shri Justice Goutam Bhaduri

Order

16/07/2021

1. The applicants have preferred this application for grant of bail as they are arrested in connection with Crime No.90/2020 registered in Police Station Kapu, District Raigarh (C.G.) for offence punishable under section 302 read with Section 34 of Indian Penal Code.
2. As per the prosecution case, on 15/11/2020 on a trivial dispute while consuming liquor the applicants alongwith other co-accused assaulted Bagar Sai Chauhan and assaulted him brutally which eventually caused his death. This was seen by eye witness Sushila, Cherka Ram and Manjiram.
3. Learned counsel for the applicants submits that the way the incident has happened there was no motive as such the case would fall under the exception to section 300 of IPC. Learned counsel submits that therefore the applicants may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of

bail and read out the statement of eye witness Sushila, Cherka Ram and Manjiram and also the medical report wherein it is stated that because of internal injury the death is caused.

5. The submission of learned counsel for the applicants that the case would fall under the exception to section 300 of IPC cannot be considered at this stage. Taking into the statement of the eye witnesses alongwith the medical evidence, as per the Indian Evidence Act it is the burden of proving the case of the accused comes within the exception would be on the accused not on the prosecution which can only be decided during the course of evidence, therefore this court is not inclined to release the applicants on bail.

6. Accordingly, the bail application is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE