

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4204 of 2021**

1. Pradeep Yadav S/o Late Devnath Yadav Aged About 19 Years R/o Shankar Nagar, Nawapara, Raipur Chhattisgarh
2. Tarun Tiwari @ Golu Tiwari S/o Mr. Parmeshwar Tiwari Aged About 20 Years R/o Brahmanpara, Nawapara, Nawapara, Raipur Chhattisgarh
3. Aasish Bhosle @ Ashutosh Bhosle S/o Late Pawan Bhosle Aged About 19 Years R/o Shankar Nagar, Nawapara, Raipur Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through The Police Station Gobra Nawapara, District Raipur Chhattisgarh

---- Respondent**MCRC No. 4216 of 2021**

- Prakash Mishra @ Guddu Mishra S/o Mr. Parmanand Mishra, Aged About 44 Years R/o Brahman Para, Nawapara Rajim P/s Gobra Nawapara Raipur Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Gobra Nawapara, Raipur

---- Respondent

For Applicants :- Mr. S.P. Yadav, Advocate
For Respondent-State :- Mr. Sudeep Agrawal, Dy.A.G.

Proceedings through Video Conferencing

Hon'ble Shri Prashant Kumar Mishra, Ag.CJ
Order On Board

09/08/2021

1. Since both the bail applications are arising out of same crime number they are being heard and decided by this common order.
2. The applicants have preferred these bail applications under Section 439 of the Cr.P.C. for grant of regular bail as they are arrested in connection with crime No.198/2019 registered in Police Station Gobra Nawapara, Raipur the offence punishable under Sections 294, 149, 302, 307, 147, 148 of the I.P.C.
3. As per the prosecution case on 22-4-2019 Neelam Singh Rajput (since deceased) and Lomesh Nirmalkar were returning on separate motorcycles after attending marriage ceremony of the son of one Sunil Nirmalkar of village Kurra. At 00.45 hours (in the midnight) accused Prakash Mishra

was standing near Satnami Para Saw Mill and stopped the deceased by raising his hand. 5-6 more persons were also standing on the road. Prakash Mishra stated that let us celebrate. When the deceased and Lomesh Nirmalkar stopped, accused Abhishek Sharma @ Lalla Sharma, Gaurav Ramdani, Pradeep Yadav, Tarun Tiwari @ Golu Tiwari & Ashish Bhosle @ Ashutosh Bhosle abused and assaulted the deceased by hand & fist. Abhishek Sharma @ Lalla Sharma took out a knife and caused injuries over the person of the deceased after which he became unconscious and later on succumbed to the injuries in the hospital. Seeing the assault Lomesh Nirmalkar ran away from the place. The deceased was alive for about 12 days and subsequently died on 4-5-2019. His case diary statement was recorded on 22-4-2019, which shall now be treated as his dying declaration. As per this statement all the accused persons have initially assaulted the deceased by hand & fist whereas Prakash Mishra and Abhishek Sharma @ Lalla Sharma caused injuries by knife.

4. It has been argued that the deceased died after 12 days of the incident and he refused to obtain treatment, therefore, the applicants are entitled to be released on bail.
5. Learned State counsel would oppose the prayer for grant of

bail.

6. In the case diary, it is found that the deceased was admitted in the Medical College Hospital at Raipur and thereafter at V.Y. Hospital, Kamal Vihar, Raipur, where he died in course of treatment on 4-5-2019. Entire treatment papers are available in the case diary. It is also evident from the case diary statement of the deceased that all the accused persons assaulted him, however, later on only two have inflicted fatal blow, therefore, I am not inclined to release the applicants on bail.
7. Accordingly, both the bail applications, *sans substratum*, are liable to be and are hereby rejected. However, the trial Court is directed to expedite the trial.

SD/-

(Prashant Kumar Mishra)
Acting Chief Justice

Ayushi