

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1360 of 2021**

Ramlal Yadav S/o Krishna Kumar Yadav Aged About 29 Years
R/o Village Devri Police Station And Tahsil Baloda District Janjgir
Champa Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Station House Officer Arakshi
Kendra Balouda Chowki Pantora, District Janjgir Champa
Chhattisgarh.

---- Non-applicant**MCRC No. 4354 of 2021**

1. Subhash Singh Kavar S/o Nohar Aged About 40 Years R/o Villager Purena
 2. Navadha Bhijwar S/o Tirith Aged About 36 Years R/o Village Dewari
 3. Bhasker Bhijwar S/o Tikamram Aged About 29 Years R/o Village Dewari
 4. Sukhsagar Bhijwar S/o Ram Bhijwar Aged About 25 Years R/o Village Dewari
- All are R/o District Janjgir Champa, Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh Through Station House Officer, Chowki
Pantora, Police Station Baloda, District Janjgir Champa,
Chhattisgarh.

---- Non-Applicant

For Applicant (MCRC 1360/2021)	: Mr. Basant Dewangan, Advocate
For Applicants (MCRC 4354/2021)	: Mr. Shubham Tripathi, Advocate
For Non-Applicant/State	: Mr. Vimlesh Bajpai, G.A.

(Proceedings through Video Conferencing)**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****19.07.2021**

- 1) **MCRC No. 1360 of 2021-** The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is arrested in connection with Crime No. 270 of 2020, registered at Police Station Arakshi Kendra Balouda Chowki Pantora District Janjgir Champa (C.G.) for the

offence punishable under Sections 304, 201/34 of I.P.C. and 135 of Electricity Act.

- 2) **MCRC No. 4354 of 2021-** The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they are arrested in connection with Crime No. 270 of 2020, registered at Police Station Chowki Pantora, Baloda, District Jangir Champa (C.G.) for the offence punishable under Sections 304, 201/34 of I.P.C. and 135 of Electricity Act.
- 3) Case of the prosecution is that, on 04.11.2020, one Malesh Ram lodged a report stating therein that when he was going from village Kanda to village Chicholi along with her niece Shantilal and reached near brick-kiln at Deori, some unknown persons have prepared a trap with live electricity wire for hunting wild animal. Shantilal came into contact with the trap of live electricity wire and died. He went leaving the deceased Shantilal on spot to his village for intimating the incident and when he along with other villagers reached to spot, dead body of deceased was found missing. The incident was reported to concerned police station, based upon which, First Information Report was registered of missing person. During the course of investigation, based on the secret information, statement of one Subhash Singh Kavar was recorded, in which, he informed that present applicants along with others have made a trap of live electricity wire for hunting wildlife. When they saw death of a human being, under fear, they have buried the dead body under sand in the nearby area. Based on the recovery of dead body and memorandum statement of applicant Subhash Singh Kavar,

instant crime was registered and present applicants along with others were arrested.

- 4) Mr. Basant Dewangan, learned counsel for the applicant in MCRC No.1360 of 2021 would submit that there is no eyewitness to the incident and based on secret information, applicant Subhash Singh Kavar was arrested and his memorandum statement was recorded, based upon which, present applicants and others were arrested. He submits that further from the material collected by police, it is apparent that there was no intention for causing death of Shantilal or any other person. It is contended that applicant was arrested on 06.11.2020 hence he may be enlarged on bail.
- 5) Mr. Subham Tripathi, learned counsel for the applicants in MCRC No.4354 of 2021 adopting the submission made by Mr. Basant Dewangan further submits that offence was registered against the unknown person. The crime was registered against the present applicants only on the basis of memorandum statement of applicant No.1. He submits that even if the allegation levelled against the present applicants are taken as it, then also offence will not fall within the definition of Section 304 Part II of IPC, but will fall under the definition of Section 304-A of IPC.
- 6) On the other hand, Mr. Vimlesh Bajpai, Govt. Advocate opposing the submissions made by learned counsel for the applicants would submit that as per postmortem report, cause of death of deceased was of cardio-respiratory arrest due to high voltage electric shock. Applicant Subhash Singh admitted the fact of trap in his memorandum statement.

- 7) I have heard learned counsel for the parties.
- 8) Taking into consideration the facts and circumstances of the case, nature of allegations and the manner, in which, death of Shantilal took place and the material collected by the police, arrest of the applicants on 06.11.2020 without commenting anything on the merits of the case, I am inclined to release the applicants, namely Ramlal Yadav, Subhash Singh Kavar, Navadha Bhijhwar, Bhasker Bhijhwar and Sukhsagar Bhijhwar on regular bail.
- 9) Accordingly, the applications (MCRC Nos.1360 of 2021 and 4354 of 2021) are allowed and it is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that :
- a) They shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.
 - b) They shall not, in any manner, tamper with the prosecution witnesses.
 - c) If the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge