

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 4863 of 2021

- Durgesh @ Dhummu Sonkhare, S/o Jagannath Sonkhare, Aged About 22 Years, R/o Lingiyadih, Atal Awas, Near F.C.I, F-01, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station- Sarkanda, District- Bilaspur, Chhattisgarh.

---- Non-Applicant

MCRC No. 4901 of 2021

- Krishna Das Manikpuri, S/o Ashok Das Manikpuri, Aged About 23 Years, R/o Near Amba Tower, Lingiyadih P.S. Sarkanda, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through P.S. Sarkanda District Bilaspur Chhattisgarh.

---- Non-Applicant

MCRC No. 5021 of 2021

- Vishal Gole, S/o Billu @ Awdhesh Gole, Aged About 27 Years, R/o Lingiyadih, Atal Awas, Near F.C.I., F-01, Police Station Sarkanda, District Bilaspur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh, Through The Station House Officer, Police Station Sarkanda, District Bilaspur, Chhattisgarh.

---- Non-Applicant

For Applicants : Shri Achyut Tiwari and Shri Raj Kumar Gupta, Advocates

For Non-Applicant/State : Shri Adil Minhaj, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

05.08.2021

- 1) Since all these cases arise out of same crime number, they are being disposed of by this common order.
- 2) The applicants have preferred these First Bail Applications under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 07.06.2021 in connection with Crime No. 845/2019 registered at Police Station- Sarkanda, District- Bilaspur (C.G.) for the offence punishable under Sections 294, 506 part-II, 323, 307,302 r/w Section 34 of IPC and Sections 25 & 27 of Arms Act.
- 3) Case of the prosecution, in brief, is that on 16.09.2019 at about 8.30 pm near Chhath Ghat when the complainant party were going for 'Lord Ganesha Visharjan', dispute between the parties arose for not giving side and thereafter, the present applicants alongwith co-accused persons abused the complainant party filthily, threatened them, assaulted them with club & sword. As a result of which the complainants/victims sustained injuries and the deceased Rinku Gupta who was assaulted with sword & club on vital part head, sustained serious injuries and died during the course of treatment.
- 4) Learned counsel for the applicants submit that the applicants have been falsely implicated in the crime in question. Learned counsel for the applicants further submits that main accused in this case is Montu Yadav @ Satish Yadav, who assaulted the deceased with sword, the common bail application of accused Montu Yadav @ Satish Yadav, Mohan Yadav Alias Prahlad Yadav & Kaushal Yadav, has already been allowed by the co-ordinate Bench of this Court vide order dated 02.06.2021 in MCRC No. 975/2021. The other co-accused persons namely Raja Mende @ Rishabh Mende & Somu Sonkar @ Ankit Gole have already been granted regular bail by the co-ordinate Bench of this Court vide order dated 25.02.2021 & 02.06.2021 in MCRC Nos. 331 and 2512 of 2021. The victims/eye witnesses namely Chandani, Arti and Santosh Rao have turned hostile. There is

no specific allegations against the present applicants krishna Das Manikpuri, Vishal Gole & Durgesh @ Dhummu Sonkhare, charge-sheet has already been filed, there is no likelihood of the applicants tampering with the prosecution evidence or absconding and the applicants are in jail since 07.06.2021 and trial is likely to take some time for its final disposal. Therefore, the applicants be released on bail by this Court.

- 5) On the other hand, learned counsel for the Non-Applicant/State opposes the bail applications and submits that the applicants are involved in the alleged commission of offence, caused death of deceased Rinku Gupta and the accused persons were arrested after two years from the date of incident. Therefore, they are not entitled for grant of bail.
- 6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the allegation made against the present applicants, the injuries sustained by the victims/complainants, the co-accused persons including the main accused namely Montu Yadav @ Satish Yadav alongwith Mohan Yadav Alias Prahlad Yadav, Kaushal Yadav have already been granted regular bail by the co-ordinate Bench of this Court, the eye witnesses/complainants have turned hostile and stated nothing against the accused persons, it is true that the present applicants were absconded but looking to the fact that main accused has been released on regular bail, charge-sheet has already been filed, the detention period of the applicants, who 22, 23 & 27 years old, number of eye witnesses have been examined, there is no likelihood of the applicants tampering with the prosecution evidence or absconding as admitted by both the counsel and due to COVID-19 conclusion of trial may take some time therefore, on the ground of parity, the applications are allowed.
- 7) It is directed that in the event of each of the applicants executing a personal bond for a sum of Rs. 1,00,000/- with two sureties of Rs. 50,000/- 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