

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 5518 of 2021

1. Rahul Bhagat, S/o Vijay Bhagat, Aged About 19 Years, R/o Village Bagichapara, P.S. Batouli, District Surguja, Chhattisgarh.
2. Abhay Gupta @ Pandri, S/o Manoj Gupta, Aged About 19 Years, R/o Village Bagichapara, P.S. Batouli District- Surguja, Chhattisgarh. **---- Applicants**

Versus

- State of Chhattisgarh, Through- Station House Officer, P.S. Batouli, District- Surguja, Chhattisgarh. **---- Non-Applicant**

For Applicants : Shri Shakti Raj Sinha, Advocate

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

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

18.08.2021

Heard.

- 1) The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 16.01.2021 in connection with Crime No. 07/2021 registered at Police Station- Batouli, District- Surguja (C.G.) for the offence punishable under Section 302, 34 of IPC.
- 2) At the outset, learned counsel for the applicant seeks to withdraw the bail application insofar as it relates to the applicant No.2 Abhay Gupta @ Pandri.
- 3) Accordingly, the present bail application on behalf of applicant No.2 Abhay Gupta @ Pandri is dismissed as withdrawn.
- 4) Case of the prosecution, in brief, is that on 14.01.2021 when the brother of the deceased reached his home, he was called by

Dilbhadra Paikra and Santosh Paikra thereafter he went near Sarswati School and saw that his brother namely Anand Gupta was made to sit by Dilbhadra and Santosh, he saw that his brother had an injury near his left eye and he was informed that one Pandari Gupta had assaulted Anand Gupta. The injured Anand Gupta was taken to the hospital where he died. Thereafter, report was lodged against the present applicants.

- 5) Learned counsel for applicant No.1 submits that the applicant has been falsely implicated in the crime in question. He further submits that the applicant applicant No.1 had not assaulted the deceased. Charge-sheet has already been filed, he has no criminal antecedents, there is no likelihood of his tampering with the prosecution evidence or absconding and he is in jail since 16.01.2021 and trial is likely to take some time for disposal. Therefore, applicant No.1 be released on bail by this Court.
- 6) On the other hand, learned counsel for the respondent/State opposes the bail application.
- 7) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the fact that as per statement of the witnesses the applicant No.1 did not make any assault upon the deceased whereas it is applicant No.2 who made assault upon the deceased, charge-sheet has already been filed, the detention period of the applicant, who is 19 years old and the fact that applicant No.1 has no criminal antecedents, there is no likelihood of his tampering with the prosecution evidence or absconding as admitted by both the counsels and conclusion of trial may take some time, the application on behalf of applicant No.1 is allowed.
- 8) It is directed that in the event of applicant No.1 executing a personal bond for a sum of Rs. 2,00,000/- with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on the following conditions:-

- (i) he 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,

(ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,

(iv) he shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority,

(v) he shall not involve himself in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

In the results: Bail application on behalf of applicant No.2 Abhay Gupta @ Pandri is dismissed as withdrawn whereas bail application on behalf of applicant No.1 Rahul Bhagat is allowed on above terms and conditions.

Sd/-
(Gautam Chourdiya)
Judge

Nadim