

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5999 of 2021**

- Manik Dugga alias Malik Dugga S/o Shri Lakhmu Ram Dugga, aged about 23 years, Caste- Gond, R/o Sulipara, Godri, Antagadh, P.S. & Tehsil – Antagadh, District North Bastar, Kanker (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Incharge Police Station: Antagadh, District: North Bastar, Kanker (C.G.)

---- State/Non-Applicant

And**M.Cr.C. No. 6005 of 2021**

1. Dilip Dugga S/o Shri Lakhmu Ram Dugga, aged about 38 years, Caste - Gond
 2. Mahesh Salam S/o Lt. Baisuram Salam, aged about 28 years, Caste – Gond
 3. Tarun Kumar Dugga S/o Mohar Singh Dugga, aged about 20 years, Caste- Gond
 4. Mukesh Dugga S/o Vishwanath Dugga, aged about 20 years, Caste- Gond
- All are R/o Sulipara, Godri, Antagadh, P.S. & Tehsil – Antagadh, District North Bastar, Kanker (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, Through : Incharge Police Station: Antagadh, District: North Bastar, Kanker (C.G.)

---- State/Non-Applicant

For Applicants : Shri D.N. Prajapati, Advocate

For Non-Applicant/State : Dr.(Ms.) Veena Nair, Deputy Advocate General

Hon'ble Shri Justice Gautam Chourdiya, J**Order on Board****08.09.2021**

1. Heard.
2. As both the above first bail applications under Section 439 of Cr.P.C. preferred by the applicants arise out of the same crime number i.e. 29/2021

registered in Police Station- Antagadh, District North Bastar, Kanker (CG) for the offence punishable under Section 302/34 of IPC, they are being disposed of by this common order.

3. Allegation against the present applicants is that in the midnight of 12.05.2021 & 13.05.2021, an unknown person entered the house of applicant Dilip Dugga, a Sarpanch of Village Panchayat Godri. Upon seeing the said unknown person, all the applicants in furtherance of common intention assaulted the unknown person by wooden stick and committed his murder. During investigation, the applicants were arrested and their memorandum statements were recorded by the police.
4. Learned counsel for the applicants submits that the applicants have been falsely implicated in this crime. He submits that the offence has been registered against the unknown person, the deceased was unknown person, there was no enmity between the deceased and the present applicants. He also submits that applicants are languishing in jail since 03.06.2021 & 16.05.2021, charge-sheet has already been filed and due to Covid-19 pandemic, conclusion of the trial is likely to take some time. Therefore, applicants be released on bail.
5. On the other hand, learned counsel for the State opposes the bail applications.
6. Heard learned counsel for the parties.
7. As per postmortem of the deceased, the following injuries were noticed by the Autopsy Surgeon on his body :
 - i. Graze abrasion over right and left scapular region;
 - ii. Graze abrasion in right popliteal region, below the knee;
 - iii. Lacerated wound of size 6 cm x 2 cm on tibial region;
 - iv. Graze abrasion in right and left deltoid region &
 - v. Lacerated wound of size 4 cm x 1 cm in left wrist.

Skull bone was found intact, brain material and chest were normal.

8. Considering the facts and circumstances of the case, the nature of allegation made against the present applicants, as per postmortem report no any serious injury or bony injury was sustained by the deceased, his cause of death is opined to be traumatic asphyxia, the deceased was allegedly beaten by the accused persons over suspicion of his abducting a child namely Nilesh, the case of the prosecution is based on circumstantial evidence, the statements of villagers, though some videography of the incident was made by one witness namely Pawan Pradhan but he deleted the same subsequently and only some screen-shot of the accused persons were recovered from him, no videography of the incident is seized during investigation, the detention period of the present applicants who are 20, 23, 28 & 38 years old, charge-sheet has already been filed, due to Covid-19 pandemic, conclusion of the trial is likely to take some time, and that there is no apprehension of the applicants tampering with the evidence or absconding as admitted by both the counsels, without expressing any opinion on merits of the case, the applications are allowed.
9. It is directed that in the event of each of the applicants 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, they shall be released on bail, on following conditions :-
- i. 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/her from disclosing such fact to the Court.
 - ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - iii. they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
 - iv. they shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
 - v. they shall not involve themselves in any offence of similar nature in future.

10. 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 nature of offence.

11. In the result, M.Cr.C. No. 5999/2021 & M.Cr.C. No. 6005/2021 are allowed on the above terms and conditions.

Sd/-

(Gautam Chourdiya)
Judge

vatti