

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6138 of 2021**

1. Gorelal Dhiwar S/o Late Ramsingh Dhiwar Aged About 58 Years
2. Kush Kumar @ Nanku Dhiwar S/o Radheshyam Dhiwar Aged About 18 Years
Both R/o Village Podi Dalha, P.S. Akaltara, District Janjgir-Champa (C.G.)

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Akaltara, District Janjgir- Champa (C.G.)

---- Respondent

For Applicants	: Shri Vivek Kumar Shrivastava, Advocate
For Respondent/State	: Shri DP Singh, Dy AG

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****28.10.2021**

1. Applicants have preferred this application under Section 439 of CrPC for grant of regular bail as they were arrested in connection with Crime No.102 of 2021 registered at Police Station- Akaltara, District- Janjgir-Champa, Chhattisgarh for the offences punishable under Sections 147, 148, 149, 294, 506, 323 & 302 of IPC.
2. Case of the prosecution, in brief, is that on 06.04.2021 at about 9 pm when Vijay Kaul was standing near his four wheeler (Van), Mukesh Dhiwar came there and stated that Vijay Kol is not having status to maintain or keep four wheeler (Van) and started commenting on him, upon which Vijay Kol stated that as to how he is making such comments upon him. Thereafter, dispute took place between them and family members of both sides came on the spot. Family members of Mukesh Dhiwar including present applicants came there and started assaulting family members of Vijay Kol including one female member. Six persons suffered injuries of which, Ramlochan Kol and Triloki Kol suffered grievous injuries. Ramlochan Kol died during the course of

her treatment. Merg intimation was given to concerned Police Station. Based on merg enquiry report, aforementioned crime is registered against applicants and other five co-accused persons.

3. Shri Vivek Kumar Shrivastava, learned counsel for the applicants would submit that applicants have been falsely implicated in the crime. They have not participated in the incident. Applicant-1 Gorelal is old aged person, aged about **65 years** (in memo of bail application his age is mentioned as 58 years) and Kush Kumar @ Nanku Dhiwar is 18 years young boy. He submits that in FIR, though, there is mention of Applicant-1 but from going through entire material, injury caused by Applicant-1 is simple in nature, even if it is accepted as it is. There is no presence of Applicant-2 Kush Kumar as it appears from FIR. There was free fight between the parties. Complainant party was aggressive and Mukesh Dhiwar lodged report with concerned Police Station first, on the same day at about 9.40 pm and report of complainant in the instant crime is lodged later on and FIR registered only on **21.04.2021**. Applicants are in jail since 10.04.2021, hence they may be enlarged on bail.

4. Shri DP Singh, learned State counsel opposing the submissions of learned counsel for the applicant, submits that applicants along with five others, forming unlawful assembly, reached the spot and participated in fight, due to which Ramlochan Kol and Triloki Kol suffered grievous injuries. Ramlochan Kol died on 08.04.2021, during the course of her treatment. As per allegation levelled against applicants and other co-accused persons that they came on the spot with intent to quarrel. Presence of applicant- 2 Kush Kumar @ Nanku Dhiwar is mentioned and

applicant No.2 as appearing is also known as Nanku and his participation is very much appearing in FIR. Hence, submission of learned counsel for the applicants that applicant- 2 was not present and participated in fight cannot be accepted at this stage.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations levelled against applicants, presence of applicants and their participation in the incident is appearing from FIR itself, Ramlochan Kol died in the incident, considering gravity of offence and nature of allegations, I do not find it to be a fit case for granting regular bail to applicants.

7. Accordingly, MCRC-6138 of 2021 is hereby dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE