

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6867 of 2020**

- Magga @ Sagar, S/o Sanguman Kadanya, age 19 Years, R/o Gandhi Chowk, Ruabandha, Bhilai Nagar, District - Durg Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through - Station House Officer, Police Station - Bhilai Nagar, District - Durg Chhattisgarh.

----Non-applicant

For Applicant	Shri S.A. Ansari, Advocate.
For State	Shri Vimlesh Bajpai, Government Advocate.

MCRC No. 7352 of 2020

- Ajay Kandra @ Pappu, S/o Seenu Kandra, aged about 20 Years, R/o Gandhi Chowk Ruabandha, Police Station Bhilai Nagar, District and Tehsil Durg (Chhattisgarh).

----Applicant

Versus

- State of Chhattisgarh, Through SHO Police Station Bhilai Nagar, District - Durg (Chhattisgarh).

----Non-applicant

For Applicant	Shri B.P. Singh, Advocate.
For State	Shri Vimlesh Bajpai, Government Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

15/02/2021

1. As both these applications filed under Section 439 of Cr.P.C.

arise out of the same Crime No.168/2019 registered at Police Station Bhilai Nagar, District Durg, C.G. for the offence punishable under Sections 148, 341/149 & 302/149 of Indian Penal Code and under Sections 25(1-b)(b) & 27 of the Arms Act, they are being disposed of by this common order.

2. Case of the prosecution, in brief, is that on 06.05.2019, complainant Anil Singh @ Jhungru lodged a report at police station Bhilai Nagar, District Durg, C.G. to the effect that Ajay Kumar Yadav @ Pawan @ Don, resident of Ruwabandha, Azad Chowk was stopped by Sagar @ Dangi, Lalit Yadav, Shankar @ Balchi, present applicants Magga @ Sagar and Ajay Kandra @ Pappu, Rahul Singh, Babu Mishra, Lala & Siddharth Sethi. On account of previous enmity, the aforesaid accused persons assaulted Pawan Kumar Yadav with baseball bat, club and sword as a result of which he sustained injuries and succumbed to the same. On report being lodged to the above effect, the aforesaid offences have been registered against the applicants and other co-accused persons.
3. Learned counsel for the applicants submit that the applicants are innocent persons and have been falsely implicated in this case. The applicants are in jail since 08.05.2019, charge sheet has already been filed, nothing is

required to be seized from them and conclusion of the trial is likely to take some. It is further submitted that co-accused persons namely Sagar Bagh @ Dagi, Rajesh Mishra @ Babu and Rahul Singh have been granted regular bail by the co-ordinate Bench of this Court on 27.05.2020 and 28.01.2020 passed in MCRC Nos. 459 of 2020, 1361 of 2020 and 8069 of 2019 respectively. Therefore, the applicants be released on bail on the ground of parity.

4. On the other hand, learned counsel for the State opposes the bail application.
5. Heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, the manner in which the crime has been committed by the applicants, the memorandum statements of the applicants wherein they have admitted commission of the offence, seizure of knife from the applicant Ajay Kandra and seizure of sword from applicant Magga @ Sagar, the injuries found on the body of the deceased as per postmortem report particularly stab wound found on his abdomen coupled with the cause of death opined by the Autopsy Surgeon, the fact that there are as many seven criminal antecedents of applicant Magga @ Sagar of the year 2016 to 2019 under Sections 294, 506, 323, 354, 325, 427, 458, 341, 302, 147,

148 & 149 of Indian Penal Code and under Sections 25 & 27 of the Arms Act and that applicant Ajay @ Pappu has one criminal antecedent of the year 2018 for the offence under Sections 294, 506, 323, 34 of Indian Penal Code, the case of the applicants being distinguishable on facts from the case of the co-accused persons who have been granted bail by the co-ordinate Bench of this Court, I do not consider present to be a fit case to release the applicants on bail at this stage.

7. Accordingly, both the bail applications are rejected.

Sd/-
Gautam Chourdiya
Judge

Akhilesh