

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 6746 of 2021

1. Amar Singh Manhare S/o Late Chepta Manhare Aged About 50 Years R/o - Village - Kusmi, P.S. - Pallari, District - Balodabazar-Bhatapara, Chhattisgarh., District : Balodabazar-Bhatapara, Chhattisgarh
2. Jitendra Manhare S/o- Amar Singh Manhare Aged About 27 Years R/o - Village - Kusmi, P.S. - Pallari, District - Balodabazar-Bhatapara, Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh Through- S.H.O. - Pallari, District - Balodabazar-Bhatapara, Chhattisgarh. (In Complete Name Of Police Station Is Mention In The Order Sheet), District : Balodabazar-Bhatapara, Chhattisgarh

---- Respondent

For Applicant : Mr. Hemant Gupta, Advocate

For Non-applicant : Mr. Dinesh Tiwari, Dy. Govt. Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

20/12/2021

1. Applicants have filed this application under Section 439 of Cr.P.C. for grant of regular bail as they have been arrested in connection with Crime No.198/2021 registered at Police Station -Pallari, District- Balodabazar-Bhatapara (CG) for the offence punishable under Sections 302, 201, 34 of IPC.
2. Case of prosecution is that in the intervening night of 5.5.2021 and 6.5.2021, Kamlesh Manhare was murdered near temple at pond of

village- Kusmi. Dead body without head with burn injuries was found by villagers at about 8:00 am in morning of 6.5.2021. Morgue was reported to concerned police station by applicant No.1. Based upon which, FIR was registered. During course of investigation, based on statement of Smt. Nanki, wife of deceased, applicants were interrogated and their memorandum statements were also taken in which they have admitted their guilt. They were arrested on 13.5.2021.

3. Learned counsel for the applicants would submit that except statement of Smt. Nanki recorded under Section 161 of Cr.P.C., there is no other evidence or material available in charge sheet/case diary to connect applicants in commission of crime. Smt. Nanki was examined before trial Court on 6.12.2021 as PW2 and she has not supported case of prosecution. Applicants are in jail since 13.5.2021, hence, they may be released on regular bail.
4. Learned counsel for the State opposes the submission of learned counsel for the applicants and would submit that based on statement under Section 161 of Cr.P.C. of Smt. Nanki, wife of deceased, applicants were arrested and during investigation, police recorded memorandum statement of both applicants in which both of them have admitted their guilt. Based on memorandum statement one sickle was seized from pond which was used for commission of crime of cutting head of deceased. He also submits that the witness to memorandum statement namely Jitendra Kumar Verma (PW1) was examined before trial Court on 16.9.2021. In his court statement, he supported case of

prosecution and prove the statement of applicants as stated by them before police. Hence, they are not entitled for grant of bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of case, nature of allegations and further submission of learned counsel for State that the witness of memorandum in his Court statement has supported case of prosecution, this Court is of the opinion that evidence cannot be appreciated in bail proceedings. Hence, I do not find present to be a fit case for grant of bail to applicant.
7. At this stage, learned counsel for applicant would submit that trial Court may be directed to conclude the trial at the earliest.
8. In view of the submission of learned counsel for applicant, trial Court is directed to expedite the trial.
9. The application is accordingly rejected.

Sd/-
(Parth Prateem Sahu)
Judge