

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7161 of 2020**

1. Ram Singh Rajput, S/o Shri Hemant Singh Rajput Aged About 21 Years R/o. Village- Harnachaka, Police Station- Lalpur, Tahsil- Lormi, District : Mungeli, Chhattisgarh
2. Hemant Singh Rajput S/o Shri Shobha Singh Rajput Aged About 41 Years R/o Village- Harnachaka, Police Station- Lalpur, Tahsil- Lormi, District : Mungeli, Chhattisgarh

---- Applicants (In jail)**Versus**

- State Of Chhattisgarh Through- Station Officer, Police Station- Lalpur (Wrongly Mentioned As Lormi), District- Mungeli, Chhattisgarh

---- Respondent

For Applicants	: Shri Shanshank Thakur, Advocate
For Respondent/State	: Shri Vikram Sharma, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****05.01.2021**

1. Applicants have preferred this application under Section 439 of CrPC for grant of regular bail as they have been arrested in connection with Crime No.136 of 2020 registered at Police Station Lalpur, District- Mungeli CG for the offences punishable under Sections 302, 120B, 201 read with 34 of the IPC.
2. Case of the prosecution in brief is that on 06.07.2020 at about 10 pm, Baldev Singh Rajput heard noise of his brother coming from Community Hall of his village. He rushed to the Community Hall and found three persons namely, Khorbahra @ Mahetaru, Gopal Singh Rajput, Sanjay @ Phosa Singh Rajput running out from the Hall with arms and weapons. When he entered the Hall, he saw his brother Kailash Singh lying on the cot with injuries. Merg was intimated and on that basis FIR was registered. During the course of investigation, based on the statement of witnesses, present applicants are arrested in the aforementioned crime.

3. Shri Shashank Thakur, learned counsel for the applicants submits that present applicants have been falsely implicated only because of they are family members of Gopal Khorbahra @ Mahetaru and Gopal Singh Rajput. Referring to statement of Baldev Singh and Rohan, who are brothers of deceased he submits that these witnesses have found three persons namely, Khorbahra @ Mahetaru, Gopal Singh Rajput, Sanjay @ Phosa Singh Rajput coming out of the place of incident. None of the two witnesses found the present applicants on the spot and no incriminating article has been recovered from their possession. He further submits that involvement of present applicants as mentioned in the statement of Daulat Singh and Bhanu Singh witnesses cannot be relied upon because they are interested witnesses, being family members of deceased. He further submits that due to enmity between the two families, applicants have been implicated in the crime.

4. Shri Vikram Sharma, learned Dy Government Advocate for the State controverting the submissions made by learned counsel for the applicant submits that though the eyewitnesses have found three persons on the spot, but in evidence of Bhanu Singh and Daulat Singh, the act of present applicants has been specifically stated as they are forming part of the group conspiring of committing the crime of murder. Hence, they are not entitled for the benefit under Section 439 of the CrPC.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegations levelled against the applicants, statement of eyewitnesses who are brothers of deceased,

who have seen only three persons coming out from the place of commission of crime, ie Khorbahra @ Mahetaru, Gopal Singh Rajput, Sanjay @ Phosa Singh Rajput, not the present applicants nor they were found present near spot and entirety of the material available in case diary, without commenting on merits of the case, I am inclined to enlarge the applicants on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicants be released on regular bail upon furnishing a bail bond in the sum of Rs.10,000/- (Rupees ten thousand) each with one surety in the like sum to the satisfaction of Court below concerned on the condition that:

- a) Applicants shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicants shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE