

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 7089 of 2020**

1. Nasib Toppo, S/o Kirtichand Toppo, aged about 25 years, Caste- Uraon.
2. Anuranjan Kujur, S/o Kamil Kujur, aged about 35 years, Caste- Uraon.
3. Alif Vishwakarma, S/o Rupdev Vishwakarma, aged about 25 years, Caste- Vishwakarma.
4. Avin Lakra, S/o Hijnus Lakra, aged about 24 years, Caste- Uraon,

All are resident of Village- Tatkela, Police Station- Bagicha, District- Jashpur, Chhattisgarh

---- Applicants**Versus**

- State of Chhattisgarh Through- Station House Officer, Police Station- Bagicha, District- Jashpur (CG)

---- Non-applicant

For Applicants	:	Mr. J.K. Saxena, Advocate
For Non-applicant	:	Mr. V. Sharma, Dy. Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****05.01.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicants, who are in custody since 26.4.2020 in connection with Crime No.87/2019 registered at Police Station Bagicha, District Jashpur (CG) for commission of offence punishable under Sections 120B, 147, 148, 149, 302, 201/34 of the Indian Penal Code.

2. Case of the prosecution, in brief, is that on 15.6.2019 at about 6.00 a.m. Merg intimation was lodged by Athnas Lakra, father of deceased Arvind Lakhra, mentioning therein that his son Arvind is found hanging on a tree. During the course of investigation, dead body of Arvind was sent for post mortem examination in which cause of death of Arvind was opined to be cardio respiratory arrest due to head injury. Statements of Bibiana Lakra & Athnas Lakra, parents of deceased Arvind, L.L. Lakra, wife of deceased, Smt. Phool Kumari Lakra & Smt. Neelu Kumari were recorded. Five persons including present applicants were arrested for the aforementioned offence.
3. Mr. J.K. Saxena learned counsel for applicants submits that there is absolutely no evidence or any incriminating material available in case diary against present applicants. Referring to statement of father & mother of deceased, he submits that deceased slept along with his parents in night, at about 2.00 a.m. in night he woke up to answer the call of nature and returned back to house. Thereafter, he again woke-up and went out of house. Father of deceased followed him but he could not trace him outside the house, therefore, he returned back home. In the morning Arvind Lakra was found hanging on a tree with some injuries over his body. There is no eyewitness to the incident. There is no material available in case diary showing presence of present applicant on spot or near the house of deceased. Ashes of burnt clothes alleged to have been recovered at the instance of present applicants which itself is not sufficient to connect them with crime in

question. Applicants are not having any criminal antecedent, hence they may be released on bail.

4. On the other hand, Mr. Vikram Sharma, learned State Counsel opposes submissions made by learned counsel for applicants and submits that parents and wife of deceased in their statements recorded under Section 161 of CrPC have stated that deceased by taking name of one of the applicants i.e. Anuranjan Kujur, used to make adverse comments against his own wife. Injuries mentioned in post-mortem report are stated to be ante mortem in nature and the applicants in their memorandum statements have admitted their guilt. He further referred to supplementary statement of Athnas Lakra, father of deceased, in support of his submission.
5. I have heard learned counsel for the parties.
6. Considering the statements under Section 161 of CrPC of parents of deceased in which they have very categorically stated that in the night intervening 14th & 15th June, 2019 deceased Arvind slept with them till 3 a.m. and suddenly he went out of house without intimating them, there is no mention with regard to presence of present applicants near the house of deceased or place of incident at that relevant point of time nor is there any evidence to show that deceased was last seen in the company of present applicants, and further considering that except memorandum statement, there is no other material available in case diary, the applicants are not having any criminal antecedent, without commenting anything on merits of case, I am inclined to release applicants on

regular bail.

7. Accordingly, the application is allowed and it is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.10,000/- each with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;

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

8. Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-