

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6974 of 2021**

Kaliram Sahu S/o Late Kanshiram Sahu, Aged About 60 Years, R/o Village - Bhatgaon, P.S. City Kotwali, Mungeli, District Mungeli (Chhattisgarh).

---- Applicant**Versus**

State of Chhattisgarh Through P.S. City Kotwali, District Mungeli, (Chhattisgarh).

---- Non-applicant**MCRC No. 7312 of 2021**

1. Kejharam Sahu S/o Horilal Sahu, Aged About 45 Years,
 2. Horilal S/o Latel, Aged About 75 Years,
 3. Rohni Bai W/o Kejharam, Aged About 43 Years,
 4. Ravindra Sahu S/o Krjharam Sahu, Aged About 24 Years,
- All R/o Village Bhatgaon Tahsil Pathriya, District Mungeli Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh Through Station Officer, Police Station City Kotwali Mungeli, District Mungeli Chhattisgarh.

---- Non-applicant

For Applicant	: Mr. Prafull N. Bharat, Senior Advocate
(in MCRC No.6974 of 2021)	with Mr. Keshav Dewangan, Advocate
For Applicants	: Ms. Upasana Mehta, Advocate
(in MCRC No. 7312 of 2021)	
For Non-applicant/State	: Mr. Dinesh Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****14.12.2021**

1. Ms. Upasana Mehta, learned counsel for applicants in MCRC No.7312 of 2021 submits that she may be permitted to withdraw bail application in respect of applicants No.1 and 4, namely, Kejharam Sahu and Ravindra Sahu.

2. In view of submission of learned counsel for applicants, application for grant of bail in respect to applicants No.1 and 4, namely, Kejharam Sahu and Ravindra Sahu is dismissed as withdrawn.
3. Since both the applications arise out of same crime number, they are being heard and decided by the common order.
4. The applicants, namely, Kaliram Sahu, Horilal, Rohni Bai have preferred these First Bail Application under Section 439 of Code of Criminal Procedure, 1973 for grant of regular bail as they were arrested in connection with Crime No. 421 of 2021, registered at Police Station City Kotwali, District Mungeli (C.G.) for the offence punishable under Sections 302, 147, 148 & 149 of Indian Penal Code.
5. Case of prosecution is that, on 19.07.2021, when Balaram Sahu asked Kejharam Sahu with regard to return of amount deposited by him towards Premium of Pulse Green Policy through agent Kaliram Sahu in the morning, Kejharam Sahu asked Balaram Sahu (deceased) to come to his house in the evening. He will go through account on computer and will inform the status of his policy. In the evening, Balaram Sahu went to house of Kejharam Sahu where he was assaulted and thereafter, injured body of Balaram Sahu has been kept in front of house of Kejharam Sahu. Balaram Sahu was taken immediately to hospital, where he succumbed to injuries during the course of treatment on 04.08.2021. Merg was intimated to concerned police station, based upon which, First Information Report was registered. During the course of investigation, police recorded statements of

Gambat Sahu, Nirmla Sahu, Lachhan Bai, Janki Sahu and Harichandra Sahu. Based on their statements, applicants and other's were arrested.

6. Mr. Prafull N. Bharat Senior Advocate with Mr. Keshav Dewangan in MCRC No.6974 of 2021 for applicant Kaliram Sahu would submit that in the entire case of prosecution, reference of Kaliram Sahu is mentioned that at some point of time, he collected amount of premium from Balaram Sahu as he was working as agent under co-accused Kejharam Sahu. In charge-sheet, there is no allegation against the applicant that he called deceased and was present in house of Kejharam when the alleged incident of assault to Balaram Sahu. None of the witnesses have stated that Kaliram Sahu was present on spot, hence, applicant Kaliram Sahu may be enlarged on bail. In support of his contention, learned counsel read over the statements of witnesses.
7. Ms. Upasana Mehta, learned counsel for applicants Horilal and Rohni Bai in MCRC No.7312 of 2021 would submit that material available in charge-sheet is only to the effect that Kejharam Sahu (co-accused) has called deceased in his house in evening and allegedly assaulted him inside the house. Applicant No.2 is old aged father of Kejharam Sahu, aged about 75 years and applicant No.3 is wife of Kejharam Sahu. Their presence in the house cannot be treated that the applicants with an intent to commit offence as alleged were present in the house, but they are present in the house being inmates of the house. There is no eyewitness to the incident and none of the witnesses have stated that they have seen these applicants participating in alleged commission of crime, hence, applicants No. 2 and 3, namely, Horilal and Rohni

Bai may be enlarged on bail. She further submits that only club has been shown to have seized from the possession of applicant No.2 Horilal, which is normally available in the house situated in village. There is no seizure of any incriminating article from possession of applicant No.3 Rohni Bai.

8. On the other hand, Mr. Dinesh Tiwari, Dy. Govt. Advocate for the State opposing the submissions of learned counsel for the applicants would submit that in the statement of Nirmla Sahu, it has come that she was informed by Janki Sahu that she heard some noise of assault upon Balaram Sahu and when they went to house of Kejharam Sahu, they saw Balaram Sahu lying injured bleeding in front of house of Kejharam Sahu, hence, there is involvement of the applicants in aforementioned crime.
9. However, upon putting specific query with regard to eyewitness, if any, to the incident, learned State counsel submits that there is no eyewitness to the incident and in the statements of witnesses, it has only come that when Nirmla Sahu Janki Sahu and Gambat Sahu went to house of Kejharam Sahu, they saw Balaram Sahu lying in front of house of Kejharam Sahu with injuries. He also submits that in the statement of Harishchandra Sahu, it has come that Dinesh Sahu informed to him that applicants have assaulted the deceased. Upon asking learned counsel for State to read over the statement of Dinesh Sahu, he submits that statement of Dinesh Sahu is not available in the case diary/charge-sheet.
10. I have heard learned counsel for the parties.
11. Taking into consideration facts and circumstances of the case, nature of allegations, statements of witnesses recorded under

Section 161 of Cr.P.C. wherein they have only stated that when they went on spot, they found Balaram Sahu lying injured bleeding in front of house of Kejharam Sahu, applicants are in jail since 05.08.2021, without commenting on the merits of the case, I am inclined to release the applicants, namely, Kaliram Sahu, Horilal and Rohni Bai on regular bail.

12. Accordingly, the applications (MCRC Nos. 6974 of 2021 and 7312 of 2021) are allowed and it is directed that the applicants, namely, Kaliram Sahu, Horilal and Rohni Bai shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) 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 they 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