

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No.6996 of 2021**

1. Dilip Lakra, S/o Bhimsen Lakra, aged about 35 years, R/o village Hathkut, Sanwajor, P.S. Kijirkela, District Sunadargarh, Odhisha (CG)
2. Adam Toppo, S/o Patras Toppo, aged about 37 years, R/o Village Hathkut, Sanwajor, P.S. Kijirkela, District Sunadargarh, Odisha.
3. Amit Kerketta, S/o Lorentus Kerketta, aged about 26 years, R/o Village Hathkut, Sanjwajor, P.S. Kijirkela, District Sunadargarh, Odisha.

---- Applicants (In Jail)**Versus**

- State of Chhattisgarh, through Officer In-charge, Police Station Lailunga, District Raigarh (CG)

....Non-applicant

For Applicants	:	Mr. Ashutosh Mishra, Advocate
For Non-applicant	:	Mr. Sameer Oraon, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu**Order On Board****06.12.2021**

1. Learned counsel for applicants submits that this is second application on behalf of applicants for grant of regular bail. Their first application bearing M.Cr.C. No.4070/2020 was dismissed as withdrawn vide order dated 17.8.2020 with liberty to file at appropriate stage.
2. Applicants are in custody since 16.2.2020 & 18.2.2020 respectively in connection with Crime No.20/2020 registered at Police Station Lailunga, District Raigarh (CG) for commission of offence punishable under Sections 302, 34 of IPC.
3. Case of prosecution, in brief, is that complainant lodged missing report of his father in concerned police station mentioning that on 6.2.2020 his father went to Handipaani market and thereafter he did not return home. On 8.2.2020 police received intimation that dead body of a man is lying near agriculture field in Handipaani, which was identified to be dead body of father of complainant. Accordingly, FIR under Section 302 of IPC is registered against unknown person. During the course of investigation, police recorded statement of Amosh

Kispotta under Section 161 CrPC in which he stated that he saw applicants assaulting deceased. Applicants were arrested on 16.2.2020 and 18.2.2020 respectively in aforementioned crime.

4. Mr. Ashutosh Mishra, learned counsel for applicants would submit that applicants have been falsely implicated in crime in question. So-called eyewitness by name Amosh Kispotta was examined before trial Court on 31.7.2021 and he has not supported case of prosecution in any manner. He submits that seizure and memorandum witness Dhansingh Paikra was examined before trial Court and he also not supported case of prosecution. Applicant are in jail since 16.2.2020 & 18.2.2020 respectively, hence they may be enlarged on regular bail.
5. On the other hand, Mr. Sameer Oraon, learned Government Advocate for the State opposes the submissions made by learned counsel for applicants and submits that serious crime has been committed by applicants, which was witnessed by eyewitness Amosh Kispotta. During the course of investigation, based on memorandum statement of applicants, bloodstained clothes were seized from their possession. Out of two seizure witnesses, one witnesses namely Dhansai is yet to be examined. Hence, applicants are not entitled to be enlarged on regular bail. However, on query he submits that there is no FSL report in case diary.
6. I have heard learned counsel for the parties.
7. Having regard to facts and circumstances of case, nature of allegations; submission of counsel for applicant that material based upon which applicants have been made accused in crime in question i.e. statement of Amosh Kispotta, did not support case of prosecution in his examination before trial Court; applicants are in jail since 16.2.2020 & 18.2.2020 respectively, without commenting anything on merits of case, I am inclined to enlarge applicants on regular bail. Accordingly, bail 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.25,000/- each with one surety in the like sum to satisfaction of 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 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

roshan/-