

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1307 of 2021**

1. Janamjay Kumar S/o Ganga Prasad Aged About 45 Years
2. Raj Kumar Chhatar S/o Ganga Prasad Chhatar Aged About 40 Years
Applicants 1 and 2 r/o Gram Panchayat Ranbhantha Post Bunga, Tahsil Pusour District Raigarh Chhattisgarh.
3. Chaitan Ratre S/o Ramesh Ratre, Aged About 36 Years Gram Panchayat Ranbhantha, Post Bunga, Tahsil Pusour District Raigarh Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Thana Pusour, District Raigarh Chhattisgarh

---- Respondent

For Applicants : Shri Sanjay Agrawal, Advocate

For Respondent/State : Shri Vimlesh Bajpai, GA and Shri Anil Tripathi, PL

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****17.12.2021**

1. Applicants have preferred this application under Section 438 of CrPC for grant of anticipatory bail as they apprehend their arrest in connection with Crime No.186 of 2021 registered at Police Station Pusour, District- Raigarh, Chhattisgarh for commission of offense punishable under Sections 302 and 34 of the IPC.

2. Case of the prosecution, in brief, is that, on 19.08.2020, deceased Mahendra Mishra was in the house of applicants-1 and 2. Mother of deceased asked one Rudra Pratap Rajak to somehow bring Mahendra Mishra to his house. He, on the request of mother of deceased, went to house of applicants where he saw that Mahendra Mishra was sitting on sofa in drawing room where applicants- 1 and 2, their father Ganga Prasad and applicant- 3 were also present. When Mahendra Mishra was coming out from the house of applicants- 1 and 2, he fell down. He was again taken back by the persons present there

including applicants in drawing room. When Mahendra Mishra was put to sit on sofa, he laid down on sofa set. This was intimated to father of deceased on his phone. One another person, namely, Sanjay Chhattar went on motorcycle to the house of deceased to intimate the condition of deceased. He found father of deceased present in the house and both of them came to house of applicants. They have asked the deceased as to what happened to him, but he was unable to reply them. They somehow bring the deceased to their house and looking to the condition of deceased, he was taken to Metro Hospital at Raigarh at about 4 pm, where during the course of treatment, he died at about 4.40 pm. Merg was reported to concerned Police Station, based on merg inquiry, First Information Report was registered on 27.08.2021 for the aforementioned offences against applicants along with other co-accused persons.

3. Anticipatory bail application filed before the Court below was rejected by impugned order.

4. Shri Sanjay Agrawal, learned counsel for the applicant would submit that there is no eye-witness to the incident as alleged. He further submits that deceased was in the habit of taking intoxications like liquor and Ganja. On the date of incident, deceased came to the house of applicants- 1 and 2, where applicant- 3 was also present along with father of applicants- 1 and 2 (co-accused) by name, Ganga Prasad. After some time, when Rudra Pratap Rajak (eye-witness) came to the house of applicants- 1 and 2, deceased Mahendra Mishra, who was sitting in drawing room, went out of the house and fell down on road. Deceased was again brought back to drawing room of applicants-1 and 2. Mahendra Mishra has not narrated any act of incident as alleged, to Rudra Pratap Rajak or made any comment against applicants which show that applicants have not committed any offence as alleged against them. When

father of deceased came to the place of incident, he immediately, took him to hospital, where he was declared to be dead. In post-mortem report of deceased, there is no mention that death of deceased to be homicidal in nature. There is no material available in case-diary connecting applicants with alleged crime.

5. On the other hand, Shri Vimlesh Bajpai, learned State counsel opposing the submissions of learned counsel for the applicants, submits that deceased Mahendra Mishra prior to alleged incident, was in the house of applicants- 1 and 2, where, their father Ganga Prasad and applicant-3 were also present. In the house of applicants itself, condition of deceased became severe. There is allegation that deceased informed his father, of assault by applicants, due to which he was unable to walk which clearly shows that applicants are involved in commission of alleged crime. However, upon putting specific query, learned counsel submits that in post-mortem report it is mentioned that injuries on the body of deceased are not sufficient in ordinary course to cause death and cause of death is still under investigation and opinion can be given only after receipt of *vicera* report. He read over statement of eye-witness Rudra Pratap Rajak.

6. I have heard learned counsel for the parties.

7. Though the deceased was present in the house of applicants-1 and 2, where applicant-3 was also present and one co-accused Ganga Prasad, father of applicants- 1 and 2 but when eye-witness Rudra Pratap Rajak went to the house of applicants 1 and 2, he saw deceased sitting on Sofa. After reaching Rudra Pratap Rajak to house of applicants 1 and 2, deceased on his own went out of the house and fell down. Deceased was again brought back to drawing

room of applicants-1 and 2 with the help of other persons, present there. There is no eye-witness to incident alleged.

8. Taking into consideration entire facts and circumstances of the case, nature of allegations, considering post-mortem report, submission of learned counsel for the parties, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicants.

9. Accordingly, bail application is allowed and it is directed that in the event of arrest of applicants in connection with the crime in question, they shall be released on anticipatory bail by the Officer arresting them on their executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:

- a) That the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
- b) That the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any Police Officer;
- c) That the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) That the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE