

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8326 of 2021**

1. Vijay Kosle, S/o Komal Kosle, aged about 19 years,
 2. Digeshwari Kosle, d/o Komal Kosle, aged about 20 years.
- Both at Banarsi Aarang, P/S Aarang, District Raipur, C.G.

---- Applicants**Versus**

State of Chhattisgarh through P.S. Aarang, District Raipur, C.G.

---- Non-applicant

For Applicants : Shri Lukesh Kumar Mishra, Advocate
 For Non-applicant/State : Shri Dinesh Tiwari, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****10.12.2021**

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 19.11.2020 in connection with Crime No.491/20 registered at Police Station Aarang, District Raipur (C.G.) for commission of offence punishable under Sections 302, 307 and 34 of the Indian Penal Code.
2. Case of prosecution, in brief, is that on 03.11.2020, Manharan Kosle and his wife Mala Kosle found lying bleeding. Incident was initially informed to Deepak Das Manikpur who is village Kotwar, who went on spot after seeing Manharan Kosle and Mala Kosle in injured condition, lodged report to concerned police station. Manharan Kosle and Mala Kosle were taken to hospital. Looking to the nature of injury, dying declaration of Mala Kosle was recorded by Executive Magistrate. Based on dying declaration,

applicants along with Komal Kosle have been arrayed as accused in the aforesaid crime.

3. Shri Lukesh Kumar Mishra, learned counsel for the applicants would submit that offence is committed by Komal Kosle. Applicants are not involved in any manner in commission of crime. There was property dispute between Komal Kosle and Manharan Kosle since last 20 years and on account of which, Komal Kosle has assaulted Manharan Kosle and Mala Kosle. Applicants have been falsely implicated in crime with ulterior motive by Mala Kosle. Champu @ Chamleshwar one of witness, in his statement under Section 161 of Cr.P.C. stated that after getting knowledge of incident, he went on spot. He asked Manharan Kosle as well as Mala Kosle to the happening of incident, in which, Mala Kosle informed that injuries have been caused by Komal Kosle, hence, it is *prima facie* appearing that there is no involvement of applicants in instant crime, hence, they may be enlarged on bail.
4. Per contra, Shri Dinesh Tiwari, Dy. Govt. Advocate for the State opposing the submissions made by learned counsel for the applicants, would submit that the incident was witnessed by Nikhil Kosle and Ku. Madhubala Kosle, who are children of deceased and injured. Dying declaration of injured Mala Kosle is recorded on next day in D.K.S. Hospital, Raipur by Executive Magistrate, wherein she has specifically stated names of applicants committing offence along with Komal Kosle, hence, applicants are not entitled for grant of bail.
5. I have heard learned counsel for the parties.

6. Taking into consideration the facts and circumstances of the case, nature of allegations, statement of eyewitness Nikhil Kosle, Ku. Madhubala Kosle and dying declaration of Mala Kosle recorded by Executive Magistrate immediately on next day of incident, I do not find it to be a fit case to enlarge the applicants on bail. Accordingly, bail application is dismissed.

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh