

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 132 of 2021**

- Devendra Kumar Thakur @ Vicky Thakur, S/o Mohan Singh Thakur, aged about 27 Years, R/o Village Nagabuda, Police Station, Tahsil and District- Gariyaband (Chhattisgarh).

----Applicant

Versus

- State of Chhattisgarh, Through Police Station- Gariyaband, District- Gariyaband (Chhattisgarh).

----Non-applicant

For Applicant
For State

Mr. Mohammad Afroz Akhtar, Advocate.
Dr. (Ms.) Veena Nair, Deputy A.G.

MCRC No. 138 of 2021

- Appu @ Pemendra Shende, S/o Late Shri Shiv Dayal Shende, aged about 30 Years, R/o Village- Devri, Police Station- Kurud, District- Dhamtari (Chhattisgarh).

----Applicant

Versus

- State of Chhattisgarh, Through Police Station- Gariyaband, District- Gariyaband (Chhattisgarh).

----Non-applicant

For Applicant
For State

Mr. Mohammad Afroz Akhtar, Advocate.
Dr. (Ms.) Veena Nair, Deputy A.G.

MCRC No. 1077 of 2021

- Vesh @ Pappu Rathore, S/o Late Ghanshyam Rathore, aged about 27 Years, R/o Nagabuda, Police Station and District Gariyaband, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Police Station Gariyaband, District Gariyaband, Chhattisgarh.

----Non-applicant

For Applicant	Mr. Prasoon Agrawal, Advocate.
For State	Dr. (Ms.) Veena Nair, Deputy A.G.

MCRC No. 1258 of 2021

- Romit Rathore, S/o Omkareshwar Rathore, aged about 27 Years, R/o Village Devbhog Road, Ward No. 07 Ravanbatha, Gariyaband Police Station and Tahsil Gariyaband, Civil and Revenue, District Gariyaband, Chhattisgarh

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Gariyaband, Civil and Revenue, District Gariyaband, Chhattisgarh.

----Non-applicant

For Applicant	Mr. Devesh G. Kela, Advocate.
For State	Dr. (Ms.) Veena Nair, Deputy A.G.

MCRC No. 1299 of 2021

- Saurabh Kutare, S/o Late Nagendra Kutare, aged about 27 Years, R/o Ambedkar Nagar, Ward No. 10, Police Station Gariyaband, District Gariyaband, Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through the Station House Officer, Police Station Gariyaband, District Gariyaband, Chhattisgarh.

----Non-applicant

For Applicant	Mr. Amiyakant Tiwari, Advocate.
For State	Dr. (Ms.) Veena Nair, Deputy A.G.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

18/02/2021

1. As all these first bail applications filed under Section 439 of Cr.P.C. arise out of the same Crime No.222/2020 registered at police station Gariyaband, District Gariyaband, C.G., they are being disposed of by this common order.

Applicants	In jail since	For offence under Sections
Devendra Kumar Thakur @ Vicky Thakur	29.10.2020	302, 307, 147, 109, 201, 212, 34 of Indian Penal Code
Romit Rathore	27.10.2020	302, 307, 147, 109, 34 of Indian Penal Code
Vesh @ Pappu Rathore	29.10.2020	302, 307, 147, 109, 201, 212, 149 of Indian Penal Code
Appu @ Pemendra Shende	29.10.2020	302, 307, 147, 109, 201, 212, 34 of Indian Penal Code
Saurabh Kutare	27.10.2020	302, 307, 34 of Indian Penal Code

2. Case of the prosecution, in brief, is that on 27.10.2020, complainant Lakeshwar Dhruv lodged a report at police station Gariyaband to the effect that on 26.10.2020 at around 10:45 pm, the villagers of village Malgaon had gathered for celebrating Dashera festival. At that time, applicant Romit Rathore by driving the car speedily hit one Raj Hans and he started quarreling with the villagers. Since Romit Rathore accompanied by Saurabh Kutare and two others were familiar with the villagers, they pacified the

dispute and asked them to go. However, Romit Rathore and Saurabh Kutare went away threatening the villagers of dire consequences. After about 5-10 minutes, they came back by the said car and Romit Rathore drove the car over the crowd as a result of which Munesh Sinha sustained grievous injuries and died on the spot whereas complainant Lakeshwar and others also suffered injuries. On report being lodged to the above effect, the aforesaid offence have been registered against the applicants.

3. Learned counsel for the applicants submit that the applicants are innocent persons and have been falsely implicated in the case. It is submitted that in fact the villagers had attacked on the car of applicant Romit Rathore and to save himself while Romit Rathore was moving away, some of the villagers accidentally got injured. It is further submitted that as per the prosecution case itself, the vehicle in question was being driven by Romit Rathore whereas the others applicants were only occupants of the said car and none of the witnesses has stated that they were either instigating or exhorting applicant Romit Rathore for driving the car over the crowd. In this case, charge sheet has already been filed, applicants are in jail since 27.10.2020 and 29.10.2020 respectively, nothing is required to be seized from them and conclusion of the trial is likely to take some time. Therefore, the applicants be released on bail.

4. On the other hand, learned counsel for the State opposes the bail applications and submits that the manner in which the offence has been committed, it is clear that all the applicants were sharing common intention and, therefore, they are not entitled for bail.

5. Heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, the fact that the vehicle in question was being driven by applicant Romit Rathore, all the witnesses have stated that it is the applicant Romit Rathore who drove the vehicle over the crowd and caused death of Munesh Sinha and injuries to others, this Court is not inclined to release the applicant Romit Rathore on bail. Accordingly, the bail application (MCRC No.1258 of 2021) is rejected.
7. In the totality of facts and circumstances of the case, the detention period of the applicants namely Vesh @ Pappu Rathore, Appu @ Pemendra Shende, Saurabh Kutare and Devendra Kumar Thakur @ Vicky Thakur, the fact none of the witnesses has stated that these applicants were in any manner exhorting or instigating the accused/Romit Rathore for driving the vehicle over the crowd, they were only occupants of the vehicle, charge sheet has already been filed, there is no likelihood of the applicants tampering with the evidence or absconding as admitted by both the counsel and conclusion of trial may take some time, without expressing any opinion on the merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the applicants. Accordingly, the applications (MCRC No.1077 of 2021, MCRC No.138 of 2021, MCRC No.1299 of 2021 and MCRC No.132 of 2021) are allowed. It is directed that in the event of each of the applicants namely Vesh @ Pappu Rathore, Appu @ Pemendra Shende, Saurabh Kutare and Devendra Kumar Thakur @ Vicky Thakur executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs.50,000/-

each to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions:-

- (i) they 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 him from disclosing such fact to the Court,
- (ii) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (iv) they shall not involve themselves in any offence of similar nature in future.

8. In the result:-

- MCRC No.1258 of 2021 is rejected.
- MCRC No.1077 of 2021, MCRC No.138 of 2021, MCRC No.1299 of 2021 and MCRC No.132 of 2021 are allowed on the above terms and conditions.

Sd/-
Gautam Chourdiya
Judge

Akhilesh