

(2022) 04 CHH CK 0021

In the Chhattisgarh High Court

Case No : Miscellaneous Criminal Case No. 1103, 1254, 2347 Of 2022

Shyamsundar Yadav Alias Toto

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 07-04-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 439

Indian Penal Code, 1860 — Section 114, 147, 148, 149, 294, 302, 307, 323, 325, 506

Citation : (2022) 04 CHH CK 0021

Hon'ble Judges : Deepak Kumar Tiwari, J

Bench : Single Bench

Advocate : Rahil Arun Kochar, Lakhan Singh Bhadoriya, Naveen Nirala, Smiti Shrivastava

Final Decision : Allowed/Dismissed/Dismissed

Judgement

1. Heard.

2. These are the three applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicants, who have been arrested in connection with Crime No.184/2021 registered at Police Station Chakarbhata, District Bilaspur (CG) for the offence punishable under Sections 294, 323, 506, 302, 307, 325, 147, 148, 149 and 114 of the IPC.

3. As per the prosecution story, on 5.9.2021, one Ashok Das Manikpuri and complainant Vinod Sahu were sitting near Shiv Temple, Mandriha Talab. At that time, 3 to 4 persons came and started assaulting both of them with lathi, due to which, they sustained grievous injuries. Ashok Das Manikpuri was taken to Bilha Hospital and from there, he was referred to the CIMS Hospital, Bilaspur. On 14.9.2021, he died during treatment. On the above basis, the offence has been registered.

4. Learned counsel appearing for applicant Shyamsundar Yadav would submit that the name of Shyamsundar Yadav is not mentioned in the FIR. He further

submits that there was also no recovery from the above applicant, therefore, he prays for releasing this applicant on regular bail.

5. Learned counsel for applicants Dipak Kumar Prajapati, Suraj Raj and Aditya Kumar Netam would submit that the Police has planted pocket witnesses and fabricated memorandum statements are recorded of the above applicants and thereby, a false recovery of lathi was made. Even in respect of injured Vinod, who as per the prosecution case was hospitalised in the CIMS, Bilaspur, no medical papers were filed along with the charge sheet. In the FIR, initially, only 3-4 persons have been named, but the charge sheet has been filed in respect of about 10 persons. They submit that co-accused Rajendra Raj has been enlarged on regular bail by a Coordinate Bench of this Court in MCRC No.683 of 2022 vide order dated 1.4.2022. Learned counsel also submit that the statement of eye-witness Baljeet Singh was recorded after two months of the incident i.e. on 6.12.2021, therefore, he appears to be a planted witness. They further submit that initially, the FIR has been registered only under Section 323 of the IPC, therefore, they pray for releasing the above applicants on regular bail.

6. On the other hand, learned counsel for the State strongly opposes all the bail applications. She submits that the case of applicants Dipak Kumar Prajapati, Suraj Raj and Aditya Kumar Netam is different from the case of co-accused Rajendra Raj, who has been enlarged on regular bail by a Coordinate Bench of this Court. She further submits that from the above applicants, on memorandum, weapon used in the offence has been recovered, therefore, their applications are liable to be dismissed.

7. Having considered the submissions of learned counsel for the parties, the nature of allegations and also considering the memorandum of applicants Dipak Kumar Prajapati, Suraj Raj and Aditya Kumar Netam, from whose possession, Lathi has been recovered, this Court is of the opinion that the present is not a fit case to enlarge the above applicants on regular bail.

8. Accordingly, MCRC No.2347 of 2022 filed on behalf of applicants Dipak Kumar Prajapati and Suraj Raj and MCRC No.1254 of 2022 filed on behalf of Aditya Kumar Netam @ Aadi are dismissed.

9. So far as applicant Shyamsundar Yadav is concerned, neither his memorandum has been recorded nor from his possession, any recovery has been made, therefore, the bail application filed on behalf of this applicant is allowed.

10. Accordingly, the application (MCRC No.1103 of 2022) filed on behalf of applicant Shyamsundar Yadav is allowed and he is directed to be released on bail on his furnishing a personal bond for a sum of Rs.20,000/- with two sureties in the like amount to the satisfaction of the trial Court. Along with the bail bonds, attested copies of the Aadhar Card and coloured Post Card full size photo shall also submitted by the applicant as well as by the sureties, which shall be duly verified by the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

11. Certified copy as per rules.