

M.Cr.C.Nos.9250/2014 and 9858/2014

29.12.2014

Shri Nisheet Vishard, learned counsel for the applicant in M.Cr.C. No.9250/2014.

Shri Avinash Sirpurkar, learned counsel for the applicant in M.Cr.C. No.9858/2014.

Shri RS Bais, learned Dy. GA for the respondent/State.

Shri AS Rathore, learned counsel for the objector.

Case diary is available.

These are first bail applications filed by the applicants under section 439 of the Code of Criminal Procedure for grant of bail.

The accused/applicants were arrested by the Police Station - Pithampur, District – Dhar in Crime No.398/14 under Sections 302, 324, 35, 147, 148, 149, 120-B, 109 and 201 of IPC and under sections 27 and 25 of the Arms Act.

According to the prosecution, on 20.06.2014 at about 10:18 pm, when the deceased Azad Patel was worshiping at Dargah in front of Malwakunj Colony, Ghatabillod Main Road, three persons came there on motorcycle. They fired gun shot on the deceased which hit on his head. He was shifted to MY Hospital, Indore where he succumbed to

injuries. During the investigation, it was found that Ram Khandelwal, applicant in M.Cr.C. No.9858/2014 alongwith other co-accused including Ajay Chouhan, applicant in M.Cr.C. No.9250/2014 entered into a criminal conspiracy to murder the deceased. According to the prosecution, a sum of Rs.1 Crore was due for payment from the accused Ram Khandelwal and Lalsingh to the deceased arising out of some business transaction between them. As they failed to repay the amount, they entered into a conspiracy to kill the deceased. It is further stated in the charge-sheet that the accused Ram Khandelwal got incised wound inflicted on him to show that he was also attacked alongwith the deceased by three unknown persons. After the investigation, according to the prosecution story, the present applicants were found on the spot with the deceased. The applicant Ajay Chouhan was seen fleeing on a motorcycle after the incident.

Learned Dy. GA opposes the bail applications on the ground that there are evidence available against the present applicants and if, granted bail, they are likely to influence the prosecution witnesses.

Learned counsel for the objector also vehemently opposes the bail applications.

Arguments heard, case diary perused.

Learned counsel for the applicants argues that the applicant Ram Khandelwal is himself the complainant in the case. He lodged FIR after the incident. He himself got injury in the incident, which is not self inflicted as stated by the prosecution. The prosecution case is based upon suspicion of the family members of the deceased and there is no legal evidence available against them.

I have gone through the case diary. After perusing the case diary and taking into consideration all the facts and circumstances of the case that emerge from the case diary, in my considered opinion, no case is made out for grant of bail to the present applicants. The application is devoid of merit and liable to be rejected and is accordingly, rejected.

Certified copy as per rules.

**(Alok Verma)
Vacation Judge**

Kratika/