

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6369 of 2017

1. Santosh Dhruv S/o Late Tikwa Ram, Aged About 32 Years R/o Hedaspur, Police Station Lalpur, District Mungeli Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station City Kotwali Mungeli, District Mungeli Chhattisgarh.

---- Respondent

And

MCRC No. 7728 Of 2017

1. Om Prakash Sidar @ Setthi S/o Lat Sukhdeo Sidar, Aged About 24 Years R/o Village Khursi, P.S. Lalpur, District Mungeli, Chhattisgarh

---- Applicant

Vs

1. State Of Chhattisgarh Through P.S. City Kotwali, Mungeli, Chhattisgarh

---- Respondent

For Applicant in
M.Cr.C.No.6369/2017

Shri S.B. Pandey, Advocate

For Applicant in
M.Cr.C.No.7728/2017

Shri Nalin Kumar Dhruv, cousin of the
applicant Om Prakash Sidar @ Setthi

For Respondent/State

Shri R.K. Mishra, Dy. Adv. General with
Shri Sangarsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

23/12/2017

1. Heard.
2. The applicants have preferred these applications filed under Section 439 of the Cr.P.C. for grant of regular bail as they are arrested in connection with crime No.417/2017 {ST No.53/2017} registered in police station City Kotwali, Mungeli, for offence punishable under Sections 302 & 120-B/34 of the Indian Penal Code.
3. Case of the prosecution, in brief, is that on 14-7-2017 the applicants and other co-accused namely; Pradeep Kumar Keshar consumed liquor and assaulted the deceased Ashok Yadav and thereafter, set him on fire. During the course of treatment, Ashok Yadav died in the hospital.

M.Cr.C.No.6369 of 2017 (Santosh Dhruv) :-

4. Learned counsel appearing for the applicant would submit that there is no evidence against the applicant to connect him with the crime in question and, as such, he is entitled to be released on bail.
5. On the other hand, learned counsel appearing for the State would oppose the bail application. Learned State counsel would submit that there is *prima facie* evidence against the applicant.
6. Considering the facts and circumstances of the case, particularly considering the statements of Bisun, Latel Ram Yadav, Pramila Yadav & Jethiya Bai recorded under Section 161 of the Cr.P.C., there is *prima facie* evidence that the applicant is under the impression that his wife is having illicit relation with the deceased Ashok Yadav and hence he committed the murder of the deceased, this Court is not inclined to release the applicant on bail.
7. Accordingly, the bail application of applicant **Santosh Dhruv** (M.Cr.C.No.6369 of 2017) is rejected.

M.Cr.C.No.7728 of 2017 (Om Prakash Sidar @ Setthi) :

8. Learned counsel for the applicant would submit that in the confessional statement of co-accused Santosh Dhruv there is no evidence against the applicant to connect him with the crime in question and confessional purpose of discovery of fact under Section 27 of the Indian Evidence Act and, as such, the applicant is entitled to be enlarged on bail.
9. On the other hand, learned counsel appearing for the State would oppose the bail application. Learned State counsel would submit that there is *prima facie* evidence against the applicant.
10. Considering the facts and circumstances of the case; particularly considering the fact that the confessional statement of co-accused Santosh Dhruv is confined to discovery fact; further considering the fact that the applicant is in detention since 29-7-2017; and also the fact that the similarly placed co-accused Pradeep Kumar Keshar has already been released on bail by this Court vide order dated 22-11-2017 passed in M.Cr.C.No.5884 of 2017, this Court is inclined to release the applicant on bail. Accordingly, the application is allowed and the applicant **Om Prakash Sidar @ Setthi** is directed to be released on bail on executing a personal bond for a sum of Rs.25,000/- with one surety for the like amount to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

Sd/-

(Ram Prasanna Sharma)
Winter Holiday Judge

Gowri