

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.788 of 2015

1. Mukesh Gorakh S/o Girdhari Lal Gorakh Aged About 35 Years
2. Rohit Gorakh S/o Narmada Prasad Aged About 32 Years
3. Anil Gorakh S/o Banwari Lal Aged About 43 Years
4. Kishore @ Kanja Gorakh S/o Late Babulal Aged About 51 Years
5. Shanu @ Kanja Gorakh S/o Kishore Gorakh Aged About 20 Years
6. Vipul @ Deepanshu S/o Kishore Gorakh Aged About 18 Years
7. Gudda @ Anand Gorakh S/o Lae Babulal Aged About 49 Years

All R/o Dayalband, P.S. - City Kotwali, Civil / Revenue Distt. - Bilaspur
Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through : P.S. City Kotwali Distt. Bilaspur Chhattisgarh

---- Respondent

For Petitioners	:	Shri Pradeep Rajgir, Advocate
For Respondent/State	:	Ms. Sunita Jain, Panel Lawyer

Order On Board

25/08/2015

Heard.

2. The applicants in the aforesaid bail application are apprehending their arrest in connection with Crime No.228/14 registered at police station–City Kotwali, Bilaspur, CG for alleged commission of offence under Section 294, 506, 323, 147, 148, 452 of IPC.

3. Prosecution case is that the applicants entered the house of the complainant and started destroying movable property, threatened, abused and assaulted in which, Rochak sustained injury in the frontal part of his head.

4. Learned counsel for the applicants submits that the applicants and the complainants are related to each other. They are cousins. There are serious disputes with regard to the ownership and title over the respective properties. According to the

applicants, the other party has encroached upon their part of land and started raising construction which was objected to, which led to assaulting the applicants and other accused, in which three persons namely Rohit, Anand and Kanja sustained injuries. It is submitted that the applicants' team lodged report in the police station immediately at 14:20 PM on which crime under crime No.227/15 was registered against the other party including Rochak. As a counter-blast, the other party lodged report at 14:30. It is submitted that against the other party also, offence similar to that against the applicants was registered. It is submitted that in the background of the incident, claim of title and possession over the land, offence under Section 452 IPC is not made out.

5. On the other hand, learned State counsel submits that according to the report against the applicants in the present case, they entered the house of the complainants and destroyed property and then assaulted members of the family of the complainant in which the complainant received injuries, therefore, offence under Section 452 IPC is made out.

6. Taking into consideration the background of the incident, relationship of the parties, claim of title and possession and that at the instance of the applicants and other co-accused, report was lodged in the police station prior in point of time and that Rohit, Anand and Kanja also sustained injuries, I am inclined to grant bail to the applicants.

7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicants shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that 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 them from disclosing such facts to the Court or to any Police Officer.
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
Manindra Mohan Shrivastava
Judge