

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 541 of 2016

1. Virendra Yadav S/o Sadanand Yadav Aged About 45 Years R/o. Kawardha, Presently R/o Jamat Mandir, Kawardha, Police Station Area Kawardha, Distt. (Civil & Revenue) Kabirdham Chhattisgarh
2. Shiva Yadav S/o Sarvajeet Singh Yadav Aged About 38 Years R/o Kawardha, Presently R/o Near Jamat Mandir, Kawardha, Police Station Area Kawardha, Distt. (Civil & Revenue) Kabirdham Chhattisgarh
3. Satyendra Sharma S/o Ramvriksh Sharma Aged About 50 Years R/o Pandariya, Presently Residing At Pandariya, District Kabirdham Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Pandatarai, Distt. Kabirdham Chhattisgarh

----Non-Applicant

For Applicants:	Dr. NK Shukla, Senior Advocate along with Shri SS Tiwari, Advocate.
For Non-Applicant/State:	Shri Arun Sao, Deputy Advocate General.
For Complainant:	Shri Mahendra Dubey, Advocate.

Single Bench: **Hon'ble Shri Prashant Kumar Mishra, J**
Order On Board

19.5.2016

1. By way of the instant application under Section 438 Cr.P.C, the Applicants have sought for grant of anticipatory bail apprehending arrest in connection with Crime No.36/2016 registered at Police Station – Pandatarai Distt. Kabirdham (CG) for the offence punishable under Sections 147, 148, 149, 323, 307, 294 and 506 IPC.
2. It appears that there was a free fight between the two groups each belonging to one of the liquor contractors. In the said fight, the Applicants

have allegedly assaulted Jai Prakash Yadav, the complainant and Chotu Singh by hands, fists, club and bricks causing fracture of left humerus bone.

3. Learned State Counsel and Shri Dubey, Learned Counsel for the Objector would vehemently oppose the application on the ground that the Applicants have created law and order situation and are permanent residents outside the State, therefore, in the event of their release on anticipatory bail, they are likely to abscond and not take on the trial.

4. Material available in the case diary would indicate that at the time of incident, the Complainant party were sitting in a road side restaurant (Dhabha) and suddenly, the accused party came and started beating the Complainant party without any provocation. It also appears that any lethal weapon has not been used by the accused party and the assault was made only by hands, fists, club and bricks. Although the Medical Officer has opined that the fracture of humerus bone sustained by Sai Prakash is serious in nature, however, the said injury is not on the vital part of the body. The other injuries are abrasions on the person of Jai Prakash Yadav and Chotu Singh.

5. Considering the entire facts and circumstances of the case, particularly for the nature of injury which is debatable as to whether the offence under Section 307 IPC would be attracted, as also for the fact that there appears to be a free fight between the Applicants and the Complainant party, this Court is inclined to released the Applicants on anticipatory bail.

6. Accordingly, the application is allowed. It is directed that in the event of arrest, the Applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.1,00,000/- with two local sureties each for the like sum

to the satisfaction of the Officer arresting them and they shall abide by all the following terms and conditions:-

- (i) that the accused/Applicant/s shall make himself/herself/themselves available for interrogation before the concerned Investigating Officer as and when required;
- ii) that the accused/Applicant/s 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/her/them from disclosing such facts to the Court or to any police officer;
- (iii) that the accused/Applicant/s shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the accused/Applicant/s shall appear before the trial court on each and every date given him/her/them by the said court till disposal of the trial.
- (v) that the accused/Applicants shall appear before the concerned police station at 11.00 am of first Sunday of every month during trial.
- (vi) in the event of violation of any of the conditions or if the Applicants are found involved in criminal activity, the State may move application for cancellation of bail.

Sd/-
(Prashant Kumar Mishra)
Vacation Judge