

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1512 of 2017

1. Dhal Singh S/o Bishat Ram Chandrakar, aged about 31 years, R/o Village Ranchirai, Police Station Ranchirai, Tahsil Gunderdehi, District Balod, Chhattisgarh.
2. Yagvendra S/o Late Kushal Chandrakar, aged about 46 years, R/o Village Ranchirai, Police Station Ranchirai, Tahsil Gunderdehi, District Balod, Chhattisgarh.

---- Applicants

Versus

1. State of Chhattisgarh, Through: The District Magistrate Balod, Chhattisgarh.

---- Respondent

For Applicants – Shri N.S.Dhurandhar, Advocate.

For Respondent – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

27-03-2017

1. Heard the instant MCRC.
2. As per learned counsel for the applicants, the applicants and other 18 accused persons were arrested in connection with crime No.106/16 under Section 294, 506B, 323, 324, 147, 302 of the IPC and also under Section 3, 5 of the Tonahi Pratadna Act. The charge sheet has been filed before the Judicial Magistrate First Class, Gunderdehi, District Balod, C.G.. The Court registered the case as Criminal Case No.43/2017. 12 accused persons granted bail in MCRC No.1203/2017 and 1204/2017 vide order dated 7 March, 2017. The name of the present applicants were not shown in the First Information Report and also in the statement of alleged eye-witness Panchu Nishad and Santram they have not stated anything specific against the present applicants except omnibus allegations. The case of the present applicants is similar to other 12 accused persons who were granted bail by this Court. Hence, both the present applicants may be granted bail till pendency of the said criminal case.
3. Learned counsel for the State/respondent would submit that the lodger

of the FIR was not eye-witness, he was a hearsay witness and he also stated that the incident were seen by the other villagers. The Jeevan Lal and Vishnu whose 161 statement was recorded by the police during investigation, it goes to show that these two applicants alongwith other co-accused assaulted by hands and fist, used obscene words with the deceased and had taken the deceased from his house to the Mandir and on account of the allegation of sorcery, assaulted the deceased. With this, in the light of statement of Jeevan Lal and Vishnu, the matter may be distinguished. Hence, the application filed by the applicants may be dismissed.

4. Perused the FIR. As per the FIR, the lodger of the FIR had lodged the unnumbered FIR, the son of the deceased was not the eye-witness and he was informed by the villagers. With this, he is not eye-witness, at the most a hearsay witness. After consideration of the statement of Jeevan Lal and Vishnu recorded by the police under Section 161 of the Cr.P.C. during investigation and after consideration of the entire facts, this cannot be held that the case of the present applicants is for assault by hands and fists only as the incident committed in a sequence continuously. With this consideration, I am not inclined to accept the argument advanced by learned counsel for the applicants on their behalf and as statement of Jeevan Lal and Vishnu were not discussed and appreciated in the earlier order. On the basis of statement of Jeevan Lal and Vishnu and other facts, the bail application filed on behalf of the applicants is hereby dismissed in the light of the evidence collected against them.

5. The MCRC dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE