

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2326 of 2017**

1. Gangaram Naik S/o Shri Jagdish Naik, Aged About 32 Years
2. Heera Sahu S/o Shri Mannu Sahu, Aged About 42 Years
3. Dilip Sahu S/o Shri Sukhlal Sahu Aged About 36 Years

All are Labours R/o Village Chhindpali, Thana Khariyar Road, Civil & Revenue District Nuwapada, Orissa.

---- Applicants

Versus

The State Of Chhattisgarh Through The Station House Officer, Police Station Komakhan, Civil & Revenue District Mahasamund, CG.

---- Respondent

MCRC No. 2333 of 2017

Mannu Sahu S/o Shri Bharatram Sahu Aged About 36 Years R/o Village- Chhindpali, Thana- Khariyarroad, Civil & Revenue District- Nuwapada, Orissa.

---- Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station- Komakhan, Civil & Revenue District Mahasamund, CG.

---- Respondent

MCRC No. 2431 of 2017

1. Budu Banjare S/o Late Shri Mangal Banjare, Aged About 65 Years
2. Neelkanth Nishad, S/o Shri Chamru Nishad, Aged About 50 Years

Both are R/o Village Baronda Bajar, Thana Mahasamund Civil & Revenue District Mahasamund Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Komakhan, Civil & Revenue District Mahasamund Chhattisgarh

---- Respondent

For applicants

Mr. Sunil Sahu

For Respondent/State

Mr. Anant Bajpai, PL

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****15/05/2017**

1. Heard finally.
2. As all the above three MCRCs arise out of the same crime number and same incident, they are being disposed of by this common order.
3. The applicants have preferred these applications for grant of bail as

they are arrested on 24-3-2017 in connection with Crime No. 28/2017 registered in PS Komakhan, Distt. Mahasamund (CG) for offence punishable under Section 2(h), 4, 6 and 10 of the Chhattisgarh Agricultural Cattle Preservation Act, 2004 (in brevity 'Act of 2004').

4. Learned counsel for the applicants submits that the applicants are in jail about one month and 22 days. From the applicants following cattle and cash were seized :-

Sr. No.	Name	Cattle/cash
1.	Gangaram Naik	3 Buffalo, 30 bullock
2.	Heera Sahu	4 Buffalo, 30 bullock
3.	Dilip Sahu	40 bullock and Rs. 2,000/-
4.	Mannu Sahu	8 Buffalo, 34 bullock and Rs. 3,000/-
5.	Neelkanth Nishad	6 Buffalo, 20 bullock
6.	Budu Banjare	4 Buffalow, 30 bullock

Out of said agricultural cattle seized from the applicants, the applicants not submitted any receipt regarding ownership of the said cattle under Section 91 of the Cr.P.C. though in the present matter, the applicants filed receipts regarding purchase of about 50 cattles, but for remaining cattles there is no prima facie material with the applicants to show any purchase receipt. The applicants are first offenders, they are in jail since 1 month and 22 days, they will not commit any offence in future, as the charge sheet has been filed, trial may take time and the offence committed is not punishable for life imprisonment, the matter is trialble by judicial magistrate first class, they may be granted bail during trial.

5. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicants and submits that the applicants were transporting agricultural cattle for the purpose of slaughter as they were not in a position to submit any purchase receipt at the time of seizure. Burden is on them under Section 11 of the Act of 2004 and looking to the number of cattle so seized the MCRCs filed by the

applicants may be dismissed. He further submits that applicants Budu Banjare and Neelkanth are resident of Mahasamund but remaining 4 accused persons are resident of Distt. Nuwapada (Orissa).

6. Perused the entire material.
7. On due consideration, as all the applicants are in jail for 1 month and 22 days, police has not noticed any earlier criminal antecedent of the applicants, charge sheet has been filed, trial may take some time, the matter is triable by magistrate first class, not to be punished for life imprisonment, though they have not produced purchase receipt at the time of seizure and 4 of the applicants are resident of neighbouring State Orissa, after considering entire facts and circumstances of the case, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime.
8. Consequently, instant MCRCs are allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs. 1,00,000/- with two solvent sureties each of Rs. 50,000/- to the satisfaction of the CJM, Mahasamund for their appearance before the said Court till disposal of the trial regularly as and when directed by the said Court.
9. It is made clear that this order granting bail to the applicants shall stand cancelled automatically without reference to the bench by the Court below if (i) the trial Court finds that the applicants suppressed filing or pendency of any other application for grant of bail before this court or the Hon'ble Apex Court intentionally, (ii) the applicants do not cooperate in the trial; (iii) the applicants are found to be involved in any offence of the like nature: (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. The applicants are further directed to appear before the concerned SHO/IO/in-charge of the Police Station Komakhan, as the case may

be, on every 1st and 3rd Monday at 11 am positively till trial. If the applicants fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remain absent without any cogent and proper reason as directed, the bail granted to applicants shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

10. A copy of the order be kept in the file of MCRC No. 2333/2017 and MCRC no. 2431/2017.

11. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge

Pathak