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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 2049 of 2017**

- Santosh Shivankar S/o Sitaram Shivankar Aged About 35 Years R/o Ganesh Ward No. 10, Dongargarh, Ward No. 10, Police Station & Tahsil Dongargarh, District Rajnandgaon, Chhattisgarh. (Name Wrongly Mentioned As Santosh Simankar In The Fir)

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, Police Station Dongargarh, District Rajanandgaon, Chhattisgarh.

---- Respondent

And**MCRC No. 2579 Of 2017**

- Shiv Kadam @ Yuvraj Kadam S/o Shri Kunvar Ji Kadam, Aged About 18 Years R/o Village Murmunda, Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Vs

- State Of Chhattisgarh Through Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Respondent

And**MCRC No. 2693 Of 2017**

1. Santaru Yadav S/o Kamlesh Yadav, Aged About 30 Years R/o Village Murmunda, Thana Dongargarh, District Rajnandgaon Chhattisgarh
2. Suraj Kadam S/o Ramnath Kadam, Aged About 23 Years R/o Village Murmunda, Thana Dongargarh, District Rajnandgaon Chhattisgarh
3. Bhagwani, S/o Latkhore, Aged About 30 Years R/o Village Murmunda, Thana Dongargarh, District Rajnandgaon Chhattisgarh

---- Applicants

Vs

- The State Of Chhattisgarh Through Police Station Dongargarh, District Rajnandgaon Chhattisgarh

---- Respondent

And**MCRC No. 2676 Of 2017**

- Chohal Kishore @ Mukesh Kumar Verma S/o Shri Hemant Verma, Aged About 23 Years R/o Village Murmunda, Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Vs

- State Of Chhattisgarh Through Police Station Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Respondent

And

MCRC No. 3109 Of 2017

1. Pemandas S/o Shri Anjor Das, Aged About 20 Years R/o Village Murmunda, Police Station Dongargarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh.
2. Kewaldas Sahu, S/o Chhaganlal Sahu, Aged About 30 Years R/o Village Murmunda, Police Station Dongargarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh.
3. Sujit Kumar Sahu, S/o Barturam Sahu Aged About 28 Years R/o Village Murmunda, Police Station Dongargarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh.
4. Mahesh Kumar Dewangan, S/o Late Gopiram Dewangan, Aged About 32 Years R/o Village Murmunda, Police Station Dongargarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh.
5. Yogesh Mandadwi, S/o Chintaram Mandawi Aged About 19 Years R/o Village Meregaon, Police Station Dongargarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh.
6. Dwarika Patel, S/o Biselal Patel Aged About 21 Years R/o Village Meregaon, Police Station Dongargarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh.

---- Applicants

Vs

- State Of Chhattisgarh Through The Police Station Dongargarh , District Rajnandgaon Chhattisgarh

---- Respondent

Appearance :

Shri Varun Sharma, Advocate for the applicant in MCRC No.2049/2017

Shri Devarshi Thakur, Advocate for the applicants in MCRC No.2579/2017 and 2676/2017.

Shri Parag Kotecha, Advocate for the applicant in MCRC No. 2693/2017.

Shri Keshav Dewangan, Advocate for the applicant in MCRC No.3109/2017.

Shri Neeraj Sharma, Dy. Government Advocate for the State in all the MCRCs.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

17.5.2017

1. Heard the matter finally.
2. As all the above MCRC arise out of the same incident and crime No., hence, all are being disposed of by the common order.
3. These are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with crime No.10/2017, registered at Police Station, Dongargarh, District Rajnandgaon (CG) for the offence punishable under Sections 147, 148, 149, 186, 307, 332, 353, 453 IPC and Sections 3 and 4 of the Prevention of Damage to Public Property Act, 1984.
4. Learned counsel for the respective applicants submit that the applicants have been arrested as below:

Sr.No.	Name	Date of arrest
1.	Santosh Shivankar	27.2.2017
2.	Shiv Kadam @ Yuvraj Kadam	18.1.2017
3.	Santaru Yadav	08.1.2017
4.	Suraj Kadam	08.1.2017
5.	Bhagwani	08.1.2017
6.	Chohal Kishore @ Mukesh Kumar Verma	18.1.2017
7.	Premandas	08.1.2017
8.	Kewaldas Sahu	27.2.2017
9.	Sujit Kumar Sahu	27.2.2017
10.	Mahesh Kumar Dewangan	27.2.2017
11.	Yogesh Mandawi	12.1.2017
12.	Dwarika Patel	14.1.2017

Police had filed charge sheet which is pending as ST No. 2/2017 before the Additional Judge, Dongargarh to the 1st Additional Sessions Judge, Rajnandgaon (CG). They submit that out of the 15 accused persons, 2 are juvenile, hence, the supplementary charge sheet is going to be filed against them before the Juvenile Justice Board, Rajnandgaon. Police had shown 9 accused as absconding and would submit that after their arrest, supplementary charge sheet is to be filed under the relevant provisions of Section 173(8) Cr.P.C. Remaining co-accused arrested in the matter, Mukesh had not yet filed any MCRC before this court. The applicants are the first offender and they have no earlier criminal antecedents. They will not commit any offence in future. The applicants are in custody from 2 months and 20 days upto 4 months and 9 days. The trial Court had framed charges against the applicants and the matter is fixed for evidence. The Constable Shakun Sahu who was injured in the said incident was remained in hospital from 10.1.2017 to 16.1.2017 and thereafter, there is no any material to demonstrate that he was ever again admitted in the hospital or any further complication regarding his any ailment on account of injuries. As per allegations the accused persons have set fire to one Govt. Sumo vehicle, 4 two wheelers and one wireless set including accessories and thereby caused loss to the govt. property worth Rs.8,59,370/- As per technical enquiry report of vehicle Sumo bearing registration No. CG 03 4917 the instant cost is about Rs. 6,00,000/- and the workshop of the police assessed the loss for Rs.3,50,000/- upto Rs.4,00,000/- thereby loss to the property reduces

upto total Rs.6,59,370/- approx. The applicants will not commit any offence in future. As per allegations in a public programme when the police party attempted to made that function in order, the mob including the present applicants assaulted Constable No. 301 Shakun Sahu and also pelted stones, police party committed riot and other offences like loss to the govt. and public property and obstructed in official work. The trial may take some time. The applicants shall obey law and order in future. They are languishing in jail for above period. They have tested the post effect of any incident and barring Section 307 IPC and no offence is punishable with life imprisonment. They may be granted an opportunity to face trial while on bail. Learned counsel further submitted that Santosh Shivankar was a photographer and at the time of incident he was covering the programme.

5. On the other hand, learned counsel for the State opposes the bail applications and would submit that looking to the act of the applicants and other co accused where they assaulted the police party and thereby obstructed to discharge the official duty, attempted to take life of the Constable Shakun Sahu, set fire to the above 4 No. two wheelers and 1 four wheeler and the wireless set and thereby caused huge loss to the property of public and govt.

6. I have heard the counsel appearing for the parties and perused the material.

7. On due consideration, the applicants are in jail since 2 months and 20 days upto 4 months and 9 days; there is no earlier criminal

antecedent; charge sheet has been filed and charges have been framed and though looking to the entire facts and circumstances 9 accused are absconding and the injured Constable Shakun Sahu remained in the hospital for 6 days only and thereafter, no any further complication is surfaced in the charge sheet and he was not re- admitted in the hospital except for the 307 IPC, the offences are not for punishment for imprisonment for life, I am inclined to grant last opportunity to the applicants so that they may not involve in any of the offence and shall remain in the society peacefully.

8. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

9. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.50,000/- with one surety in like sum to the satisfaction of the concerned Trial Judge for their appearance before the said trial Court as and when directed.

10. 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; and (iv) the trial Court finds that the applicants remain absent without any sufficient and cogent reason. If bail is cancelled

automatically in view of the above , the Court below may proceed further under the provisions of law, under intimation.

11. The applicants are further directed to remain present before the SHO/IO/Incharge as the case may be to Police Station Dongargarh District Rajnandgaon on every Monday till trial at 11.00 am sharp to mark their appearance. If the applicants fail to appear as directed, Dongargarh Police may intimate the same to the Trial Judge and if the Trial Judge finds that the applicants remained absent without any cogent or proper reason, the bail granted to the applicants shall stand cancelled without reference to the Bench under intimation.

12. The copy of the order shall be kept in MCRC No. 2579/2017, 2693/2017, 2676/2017 & 3109/2017.

Certified copy as per rules.

**Sd/
(Chandra Bhushan Bajpai)
JUDGE**