

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3012 of 2017**

1. Santosh Malik S/o Phoolchand, Aged About 45 Years R/o Ward No. 22, Behind Central Hospital, Amakherva, Manendragarh, District Koriya Chhattisgarh
2. Vinay Malik, S/o Vijay Malik, Aged About 26 Years R/o Ward No. 22, Behind Central Hospital, Amakherva, Manendragarh, District Koriya Chhattisgarh
3. Avinash Malik, S/o Anand Malik, Aged About 25 Years R/o Ward No. 22, Behind Central Hospital, Amakherva, Manendragarh, District Koriya Chhattisgarh
4. Yash Malik, S/o Santosh Malik, Aged About 18 Years R/o Ward No. 22, Behind Central Hospital, Amakherva, Manendragarh, District Koriya Chhattisgarh

---- Applicants

Versus

- The State Of Chhattisgarh Through Police Station Manendragarh, District Koriya Chhattisgarh

---- Respondent

AND**MCRC No. 3296 of 2017**

- Rajesh Vinetkar S/o Shri T Vinetkar, Aged About 42 Years R/o Ward No. 22, Aamakherva, Manendragarh District- Koriya, Chhattisgarh.

---- Applicant

Versus

- The State Of Chhattisgarh Through Police Station Manendragarh District- Koriya, Chhattisgarh.

---- Respondent

For Applicants : Shri Parag Kotecha, , Advocate
 For Respondent/State : Shri Ashok Swarnakar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board**

28.6.2017

As both the above mentioned bail applications arise out of same crime number and incident, both the applications are being disposed of by a common order.

2. 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.72/2017 registered in Police Station Manendragarh, Distt. Koriya (CG) for the offence punishable under Sections 147, 294, 506, 323, 186, 332, 353, 34 of the IPC.

3. Learned counsel for the applicants submits that the applicant Rajesh Vinetkar has been arrested on 18.4.2017 and remaining applicants have been arrested on 28.3.2017, after investigation, concerned police has filed charge sheet against the five accused persons, which is pending as Criminal Case No.216/17 before Judicial Magistrate First Class, Manendragarh. The injured AC Vijay Kumar was admitted in the Apollo Hospitals, Bilaspur from 19.3.2017 to 22.3.2017. There is no material surfaced in the charge sheet whether the injured ever complained regarding any further complication regarding his ailment. There is no document to show that the injured was sent to Bangalore for further treatment. The CT scan report of the injured shows the normal study of brain. As per MLC report, the injured sustained abrasion and tenderness on chest back and whole stomach. Except this, no other injuries or its post effect were surfaced. Applicant Rajesh is in custody for two months and 10 days, other four accused are in custody for three months. None of the charges alleged is punishable for life imprisonment. The

matter is triable by Judicial Magistrate First Class. As per the allegation line man AC Vijay Kumar was in duty at Electricity sub station Amakherva for maintenance of electric supply, the applicants came there, committed marpeet with him by hands and fists and brick and stone. The applicants will not commit any offence in future, hence, they may be granted bail.

4. Per contra, learned counsel for the State opposes the bail application on the basis of the incident as all the applicants assaulted a public servant while he was discharging his duty. Hence their applications for bail may be dismissed.

5. Perused the entire material.

6. Applicant Rajesh is in custody for two months and 10 days, other four accused are in custody for three months, charge sheet has been filed, the trial may take sometime, on perusal of the MLC report and CT scan report goes to show that function of brain is normal and there is no further complication in the report and other injuries were found to be simple in nature, though the injured was admitted in the hospital for four days but there is no further complication arise or shown in the charge sheet. Upon consideration of the entire facts, I am inclined to grant one opportunity to the applicants, so that they shall not commit any similar or other offence in future.

7. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- each with two separate solvent sureties of Rs. 25,000/- each to the satisfaction of Judicial Magistrate First Class, Manendragarh for their appearance before the said Court as and when directed.

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; 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.

10. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Station House Officer/IO, Police Station Manendragarh, Distt. Koriya (CG) on First and Third Monday of every month at 11.00 am. It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Manendragarh, Distt. Koriya (CG) as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically

be cancelled by the trial Court without further reference to the Bench, under intimation.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge and also to provide a copy of the order to the respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE