

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2953 of 2017

- Netram S/o Salik Ram, aged about 39 years, Caste Yadav, R/o Village Chodha, Out Post Hardi Bazar, Police Station Kusmunda, Civil and Revenue District Korba Chhattisgarh
- Satyaprakash S/o Salik Ram, aged about 23 years, Caste Yadav, R/o Village Chodha, Out Post Hardi Bazar, Police Station Kusmunda, Civil and Revenue District Korba Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer Out Post Hardi Bazar, Police Station Kusmunda, District Korba Chhattisgarh

---- Non-applicant

For Applicants – Shri Dharmesh Srivastava, Advocate.

For Non-applicant/State – Shri Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

22-09-2017

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that both the applicants held arrested in connection with Crime No.211/2016 on 30-03-2017 by Out Post Hardi Bazar, Police Station Kusmunda, District Korba, Chhattisgarh for the offence under Section 307, 34 of the IPC and Section 3(1)(r), Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act, 1989'). After investigation police had filed the charge sheet, which is presently pending before the Special Judge under the Act, 1989 Korba, C.G. as Special Sessions Trial No.12/17. As per the allegation, both the applicants caused following injuries to one Manoj Kumar by club, hands and fists :- (1) lacerated wound, size 5 cm. x 3 cm. x bone deep, (2) lacerated wound, size 2 cm. x 2 cm. near left eye, (3) lacerated wound, size 1 cm x 1 cm. over left side on face, (4) lacerated wound, size 6 cm. x 3 cm. x bone deep on scalp of left parietal region, (5) one contusion, size 6 cm. x 3 cm. on both palm. The doctor advised for X-ray and C.T. Scan. In further examination depressed

fracture over left parietal bone and fracture over left maxillary bone are noticed. The injured was admitted at hospital from 26-12-2016 till 8th of February, 2017, i.e., for 45 days. There is no any fact regarding any injury on eye or privation of sight of eye. Also there is no complication arose after discharge of the injured from the hospital. Both the applicants are first offender. The incident happened in the background that at earlier night injured and one other witness Ashok Porte were present outside of the house of the applicants, thereafter Ashok Porte went inside the house of the applicant, at that time the applicants were not present, when they saw the injured standing outside of the house and witness Ashok Porte coming out from the residence of the applicants, on account of some suspicion the applicants assaulted the injured. There was no any intention to kill the injured. They will not commit any offence in future. There is no earlier criminal past of the applicants. They may be enlarged on bail.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and would submit that as for no known reason both the applicants assaulted the injured and caused aforementioned injuries including depressed fracture and fracture over left maxillary bone and as the injured was admitted in the hospital for about 45 days, the instant MCRC may be dismissed, though fairly conceded that there is no any criminal antecedent of the applicants.

4. Perused the entire material.

5. As both the applicants are real brothers, they are in custody since 5 month and 25 days till date, charge sheet has been filed and there is no any fact whether after discharge from the hospital on 8th of February, 2017 till date any further complication arose in the injuries already caused, both the applicants had no criminal past and looking to the background of the incident where injured Manoj Kumar was standing outside of the residence of the applicants and the alleged eye-witness entered inside the residence where the young sister of the

applicants alone was present, on consideration of the entire facts, I am inclined to grant one opportunity to both the applicants so that they shall not involve themselves in any offence and shall live peacefully in society. Consequently, the instant MCRC is hereby allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties of Rs.25,000/- each to the satisfaction of the trial Court for their appearance before the said Court as and when directed till trial.

6. 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 above, the Court below may proceed further under the provisions of law under intimation.

7. In addition, the applicants are directed not to communicate/contact in any of the manner with the injured and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, the injured and the witnesses may report the said act to the trial Judge and if the trial Judge finds that in any way the applicants gave pressure or any attempt for any illegal favour in the trial or otherwise directly or indirectly, the bail granted to the applicants shall be cancelled without further reference to the Bench and the concerned trial Court shall take the applicants in custody including other measures as provided under the law.

8. Certified copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)
Judge