

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3134 of 2017**

Santosh Kumar Choube S/o Late Arjunlal Choube, Aged About 48 Years R/o Adarsh Nagar Tikrapara, Bilaspur, Police Station City Kotwali, Bilaspur District Bialspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh through its District Magistrate Bilaspur By Police Station Incharge Civil Lines Bilaspur, District Bilaspur, CG.

---- Respondent

And**MCRC No. 4029 Of 2017**

Mayank Choubey S/o Santosh Kumar Choubey, Aged About 22 Years R/o Adarsh Colony, Near Bihari Takies, Dayalband, Police Station City Kotwali, District Bilaspur, CG.

---- Applicant

Vs

State of Chhattisgarh through S.H.O., Police Station City Kotwali, (Instead Police Station Civil Lines the order sheet wrongly reflects as Police Station City Kotwali) District Bilaspur, Chhattisgarh.

---- Respondent

For applicants	Mr. K.A. Ansari, Sr. Adv. with Mr. Devesh G. Kela, Adv.
For Respondent/State	Mr. Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****3-7-2017**

1. As both the above MCRC arise out of the same incident and crime number, hence they are being disposed of by this common order.
2. Heard finally.
3. The applicants have preferred these two applications for grant of bail as they are arrested on 30-3-2017 in connection with Crime No. 223/2017 registered in PS Civil Lines, Bilaspur (CG) for offence punishable under Section 307/34 of the Indian Penal Code, 1860. After investigation charge has been filed against

both the applicants which is pending before 7th Additional Sessions Judge, Bilaspur as ST No. 53/2017. Charges have been framed against both the applicants under Section 307/34, 324/34 of the IPC. As per allegation, applicant Mayank Choubey assaulted complainant Shishi Dixit by hard and sharp object. The doctor conducting MLC noticed incised wound extending from cheek upto neck measuring 6 x ½ x ½ cm, he also noticed another incised wound over right forearm measuring 5 x ½ cm x skin deep. Both the injuries are simple in nature. Applicant Mayank Choubey also assaulted Amiyakant Tiwari who sustained incised wound 6 cm x ½ cm x skin deep over left arm, as per the Doctor, it was simple in nature. Police had registered the matter under Section 307 of the IPC on the basis of intention to attempt to take life of Shishir Dixit as the first injury was over cheek till neck. Both the injured were not admitted in the hospital as indoor patient. One pencil sharpener blade has been seized from applicant Mayank Choubey on the basis of his memorandum statement. In the said incident Mayank Choubey also received 7 incised wound each measuring 3 cm x ½ cm x skin deep. The doctor conducting MLC opined all the injuries as simple in nature. Also the doctor at the time of MLC of Mayank noticed smell of alcohol in his breath. Both are in custody since long. They will not commit any offence in future. They have no criminal antecedent. As per facts surfaced in the unnumbered FIR, Shishir Dixit telephoned Santosh and intimated him regarding the incident. Thereafter applicant Santosh Choubey came at the spot. The trial may take some time. Hence they may be enlarged on bail.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants and submits that the applicants assaulted both the injured as aforementioned. Also the injury over the cheek to neck in the body of Shishir Dixit, and applicant Mayank Choubey was under the influence of alcohol, it shows the intention of attempt to take life of Shishir Dixit. Applicant Mayank Choubey was making some uncomfortable act to a girl. Both the injured went to ask him not to repeat it again and the applicant Mayank Choubey was on the spot with a pencil sharpener blade with preparation to hurt. Hence looking to the entire facts, both the MCRCs may be dismissed.
5. Perused the entire material.
6. As both the applicants are in custody since 3 months and 3 days, charge sheet has been filed, the trial has commenced, no injured was admitted to hospital and applicant Mayank Choubey also received injuries as aforementioned though he was under the influence of alcohol but looking to the entire act of applicant Santosh Choubey and with the fact that both the applicants are first offender with no criminal antecedent and no report has been lodged against them in connection with any earlier incident, on due consideration of entire facts, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. 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. 50,000/- with one solvent surety of the like sum to the

satisfaction of the 7th Additional Sessions Judge, Bilaspur for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.

7. 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.
8. A copy of this order be placed in the file of MCRC No. 4029/2017.
9. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge