

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3452 of 2017**

1. Shiva Karihar @ Motu S/o Shri Heeralal Karihar, Aged About 30 Years R/o Village Devridih Lalkhadan, Police Station Torwa Tahsil & District Bilaspur, Chhattisgarh.
2. Akash Karikant S/o Shri Shatruhan Karikant, Aged About 25 Years R/o Sipperpara, Lormi Police Station & Tahsil Lormi, District Mungeli, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Police Station Lormi, District Mungeli, Chhattisgarh.

---- Respondent

For applicant	Mr. Dheerendra Pandey, Adv.
For Respondent/State	Mr. Vasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11/7/2017**

1. Heard finally.
2. The applicants have preferred this application for grant of bail as they are arrested on 20-1-2017 in connection with Crime No. 22/2017 registered in PS Lormi, Distt. Mungeli for offence punishable under Section 435, 436, 427, 34 of the IPC and Section 4 of the Prevention of Damager to Public Property Act, 1984.
3. Learned counsel for the applicants submits that after investigation charge sheet has been filed and the matter is pending before the JMFC, Lormi as Criminal Case No. 92/2017. Learned counsel submits that some unknown persons set ablaze the fire extinguishing vehicle of Nagar Panchayat, also set ablaze other belongings of the guard at the guard room. There is no eye-witness. The applicants are made accused on the basis

of disclosure statement of applicant Shiva Karihar @ Motu and on the basis of said statement, near the wall of Nagar Panchayat office at open place, one container having smell of petrol was seized and also from applicant Akash Karikant, one pipe of 40 1/2" and one match box was seized near the wall of Nagar Panchayat office Lormi which was an open place. Nobody saw the applicants committing any offence or entering into the premises or coming out of the premises. The applicants are in jail since very long. Trial may take some time and as the prosecution had not filed any document showing that the applicant ever served in the service of Nagar Panchayat Lormi and if at all it may be presumed, the presumption may not be *prima facie* conclusive material against the applicants and there is no earlier criminal antecedent. Therefore they may be released on bail.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants on the basis of statement of Chhedilal recorded under Section 161 of the Cr.P.C. regarding the fact that the applicants were in the payroll of the Nagar Panchayat and thereafter when they were not doing their duty properly they were thrown out from the job and thereafter there was some verbal duos between Akas Karikant and one Darbar Singh working as incharge of Sanitation and other dispute and also on the basis of memorandum recorded, seizure from near the wall of Nagar Panchayat Lormi, at the instance of both the applicants.

5. Perused the matter.

6. As both the applicants are in custody since 5 months and 21 days, there is no criminal antecedent reported against the applicants, there is nothing to demonstrate that ever they were in service of Nagar Panchayat, Lormi, there is no eye-witness, there is no incriminating evidence against the applicants, looking to the entire evidence collected and the strength of said matter, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is 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 each of Rs. 25,000/- to the satisfaction of the JMFC, Lormi CG for their appearance before the said Court 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. The applicants is further directed to appear before the concerned SHO/IO/in-charge of the Police Station Lormi 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.

8. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge

Pathak