

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.3477 of 2017**

1. Mukesh Pasi S/o Ratan Pasi, Aged About 35 Years R/o Pariyapara Lalkhadan Bilaspur, Police Station Torwa Tahsil And District- Bilaspur, Chhattisgarh.
2. Rajesh Pasi S/o Ratan Pasi, Aged About 19 Years R/o Pariyapara Lalkhadan Bilaspur, Police Station Torwa, Tahsil And District- Bilaspur, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through: The Police Staion Torwa, District- Bilaspur, Chhattisgarh. .

---- Respondent

For Applicant	: Shri PK Tulsyan, Advocate
For Respondent/State	: Shri Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****19.6.2017**

Heard the matter finally.

2. This is an application 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.26/2017 registered in Police Station Torwa, Distt. Bilaspur for the offence punishable under Sections 294, 506, 323, 147, 148, 307/34 of the Indian Penal Code.

3. Learned counsel for the applicants submits that there are five accused persons in the matter, out of which, after investigation, charge sheet has been separately filed against two juveniles before Juvenile Justice Board, Bilaspur and charge sheet has been filed against other three accused persons before Special Railway

Magistrate, Bilaspur which is pending as Criminal Case No.1263/2017 and the matter is committed to the Court of Seventh Additional Sessions Judge, Bilaspur as Session Trial No.49/2017. The applicants have been arrested on 26.01.2017, the other co-accused has not preferred any appeal for his release. As per the allegation the victim/injured Shivam @ Amitesh Shukla was assaulted by the accused persons by club, rod, and other instruments. The injured was admitted in the hospital from 23.01.2017 to 26.01.2017 and after his discharge no any complication has been noticed and as per MLC report, the applicants assaulted the injured over the left side of the face. There is no report regarding the nature of injury whether it was fatal for life or not. The applicants are in jail for 04 months and 25 days. It is further submitted that against applicant No.1, Complaint Case No.239/14 has been initiated for the preventive proceedings under Section 107, 116(3) of the Cr.P.C. and against applicant No.2 Crime No. 233/14 under Section 379 of the IPC, Crime No.194/12 under Section 379 IPC were charged. The proceedings on the preventive action has already expired within six months from the date of presentation of the complaint before the executing magistrate Courts and regarding applicant No.2 both the matters are pending. The applicant was not convicted by any of the court and both the applicants were not involved in the similar offence. Applicant No.2 is aged about 19 years, both the applicants are real brothers, they will not commit any offence in future and as per the allegation on account of earlier enmity when the victim reached to the spot to intervene with a dispute, an assault being committed with two groups

and when the victim intervened he too was assaulted. The trial may take sometime, hence, the applicant may be granted bail.

4. Per contra , learned counsel for the State opposes the bail application on the basis of the aforesaid criminal cases registered against the applicants and also in the manner the applicants assaulted the victim.

5. Perused the entire material.

6. On due consideration of the fact that the applicants are in jail for four months and twenty five days, charge sheet has been filed, the trial may take sometime, Applicant No.2 is aged about 19 years, and the injured remained in the hospital for as in door patient for four days, there is nothing to demonstrate the fatality of the injuries noticed over the body of the injured, 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, bail application 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 solvent sureties of Rs.25,000/- to the concerned trial Judge 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.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE