

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4301 of 2017**

1. Tejram S/o Gopiram Kosle, Aged About 34 Years R/o Village Navagaon, Police Station Pallari, District Baloda Bazar Bhatapara Chhattisgarh
2. Ballu S/o Gopiram Kosle, Aged About 28 Years R/o Village Navagaon, Police Station Pallari, District Baloda Bazar Bhatapara Chhattisgarh
3. Chhamman, S/o Gopiram Kosle, Aged About 21 Years R/o Village Navagaon, Police Station Pallari, District Baloda Bazar Bhatapara Chhattisgarh
4. Dwarika, S/o Gopiram Kosle, Aged About 43 Years R/o Village Navagaon, Police Station Pallari, District Baloda Bazar Bhatapara Chhattisgarh
5. Narendra S/o Gopiram Kosle, Aged About 20 Years R/o Village Navagaon, Police Station Pallari, District Baloda Bazar Bhatapara Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through S. H. O. Police Station Bhatapara (Gramin) District Baloda Bazar Bhatapara Chhattisgarh

---- Non-applicant

For Applicant	: Shri Hemant Gupta, Advocate.
For Respondent/State	: Shri O.P. Sahu, Gov. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11.10.2017**

1. 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 applicant, who has been arrested in connection with crime No. 86/2017 registered in Police Station Pallari, District Baloda Bazar - Bhatapara (C.G.) for the offence punishable under Section 147, 148, 149, 323, 307 of Indian Penal Code.
3. Learned counsel for the applicants would submit that the applicants have been arrested on 10.05.2017. After investigation police had filed charge-sheet before Chief Judicial Magistrate Baloda Bazar, C.G., who had committed the matter to the Court of Sessions. Presently matter is pending before Second Additional Session Judge, Baloda Bazar – Bhatapara, C.G., as Sessions Trial No. 54/2017. All the applicants are first offender, never involved in any of the penal offences but for three matters in connection with preventive proceedings. As per allegation all the applicants caused injuries to following persons:-

Sl. No.	Name of Injuries	Type & Size of Injury	Weapon	Nature	Hospitalized
1.	Jeewan Bandhey	1. Incise wound – Size – 1.5x4' deep to bone on parietal region. 2. Incise wound – Size – 1'x4' deep to bone on parietal region.	Hard Sharp & Hard Sharp &	Grievous Grievous	13.03.2017 to 18.03.2017
2.	Chhatta Bandhey	Contusion – 4' x 6' Rt – Fore Arm.	Hard Object	After X-ray	After Primary treatment
3.	Pawanlal	Incised wound – 1.5' x 6' deep to bone on upper side of skull	Hard Object	Grievous	13.03.2017 to 18.03.2017
4.	Khiledi	Incised wound – 1.5' x 3.5' deep to bone – Left Parietal region	Hard Sharp &	Grievous	15.03.2017 to 18.03.2017
5.	Kholbahari	1. L.W. - 2 x 3 Cm. - Left Temporal	Hard &	Simple	After

	n	Region. 2. Incised wound – 1 x 2 Cm. - Fore Head.	Blunt Hard & Sharp	Simple	Primary Treatment.
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Injuries were caused by Crowbar and bamboo stick. As per allegations, the alleged crowbar has been seized from the applicant A-2 Ballu and Bamboo Stick seized from A-5 Narendra. There is no any fact surfaced that after the discharge from the hospital as aforementioned any of the injured has developed any further complication after 18.03.2017. Trial may take some time, there is no any fracture noticed to any of the injured. Learned counsel would further submit that the applicants and the injured are near relative. On account of previous enmity both the parties assaulted each other. In the said incident A-2 Ballu sustained to abrasions, A-3 Chhamman sustained one incised wound and one lacerated wound, A-5 Narendra sustained one incised wound, A-1 Tejram sustained one incised wound and also two other persons Rameshwar and Mahendra sustained one incised wound each. With this six aforementioned persons were injured by the opposite party. There was a free fight. Both the parties settled their dispute outside applicants will maintain law and order and will not commit any offence, hence applicants may be enlarged on bail.

4. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants and would submit that against the applicants following matters have been registered prior to the incident.

(i) Applicant A-2 Ballu, Complaint No. 296/12, under Section 107, 116 (3) Cr.P.C.

(ii) Applicant A-2 Ballu and A-3 Chhamman, Complaint No. 77/13 Section 107, 116 (3) of Cr.P.C.

(iii) Against all the applicants, complaint No. 194/2017, Section 107, 116 (3) of Cr.P.C.

Learned counsel for the State would further submit that looking to the injuries caused by the applicants as aforementioned and others facts the instant MCRC may be dismissed.

4. Perused the entire material.
5. All the applicants are in custody for last more than 5 months till date, no any penal offence registered against the applicants prior to the incident. So for as all the aforementioned preventive proceeding are concerned, they are automatically stopped after a period on 6 month as per law. In the said incident as aforementioned 4 applicants and 2 other persons sustained injuries including one fracture and incised wound. Trial may take some time, there is no any fact that since 18.03.2017, after discharge of injured Jeewan bandhey, Pawallal and Khiledi any further complication developed, on consideration of the entire facts, I am inclined to grant one opportunity to the applicants so that they will not commit any offence in future and shall remain peacefully in the society.
6. Consequently, the instant MCRC is hereby allowed.

7. It is directed that the applicants shall 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/- for each applicant, to the satisfaction of Trial Judge, for their appearance before the said Court as and when directed.
8. 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.
9. In addition, the applicants are directed not to communicate/contact in any of the manner with the injured their family members and witnesses cited in the charge-sheet or attempt to ask for any favour in the directly or indirectly. If so, the witnesses and the injured may report the said act to the trial Judge and if the trial Judge finds that in any way the applicant directly or indirectly gave pressure or any attempt for any illegal favour in the trial or otherwise, the bail granted to the applicant shall be cancelled without further reference to

the Bench and the concerned trial Court shall take the applicant in custody including other measures as provided under the law.

10. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

Judge

Pawan