

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4311 of 2017

- Kuleshwar Sinha @ Golu S/o Gokul Sinha, Aged About 28 Years, R/o Shankarpur, Bajrang Chowk, Santoshi Mandir Gali, Ward -10 Rajnandgaon Chhattisgarh.
- Mohit Sinha @ Lalu S/o Gokul Sinha, Aged About 25 Years, R/o Shankarpur Bajrang Chowk, Santoshi Mandir Gali, Ward - 10 Rajnandgaon Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, P. S. Out Post Chikhali Thana Kotwali District Rajnandgaon Chhattisgarh

---- Non-applicant

For Applicants – Shri Ishan Verma, Advocate.

For Non-applicant/State – Shri Arvind Shukla, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

08-08-2017

1. Heard the matter finally.
2. Learned counsel for the applicants would submit that the applicants held arrested in connection with Crime No.170/2017 on 16-3-2017 by Outpost Chikhali P.S. Kotwali Rajnandgaon, Distt. Rajnandgaon, C.G. for the offence under Section 307, 34 of the IPC and Section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act, 1989'). After investigation police had filed the charge sheet which is pending before the Special Judge under the Act, 1989 Rajnandgaon, C.G. as Special Sessions Trial No.17/2017. It is submitted on behalf of the applicants that the applicants are in custody since 16-03-2017 till date. As per the allegation, they assaulted their neighbour by iron rod and applicant Mohit Sinha had held collar of injured Prakash Jamulkar; out of the assault injured Prakash Jamulkar received lacerated wound over skull, another lacerated wound over left parietal region and contusion over face and head. The injured was admitted in the hospital from 16-03-2017 till 26-03-2017 and thereafter he is discharged. There

is no any further complication surfaced in the charge sheet. As per the query, the injuries were grievous in nature and the injured was saved by the timely treatment otherwise death was probable. The applicants are first offender. On account of some dispute the applicants out of sudden provocation did this. They will not repeat any offence in future. They may be granted bail as the trial may take some time.

3. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and would submit that on account of previous enmity both the applicants assaulted the injured and caused grievous injuries. Hence, looking to their act, the instant MCRC may be dismissed.

4. Perused the entire material.

5. As the applicants are in custody since 4 months and 22 days till date, the injured has already been discharged on 26-03-2017 and thereafter no any complication surfaced in the charge sheet, the applicants are first offender, on account of earlier enmity this *maarpeet*, the incident, committed, on consideration of the entire facts, I am inclined to grant one opportunity to 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 Special Judge under the Act 1989 Rajnandgaon, C.G. 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, his family members and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, the witnesses, the injured and his family members 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