

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4261 of 2017

- Ravishanker Mishra S/o Chandra Kumar Mishra, Aged About 25 Years, R/o IHSDP Colony, Bombay Awas Urla, Police Station Pulgaon, District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pulgaon, District Durg, Chhattisgarh.

---- Non-applicant

And

MCRC No. 4337 of 2017

- Ashish @ Macho @ Ashwani Thakur S/o Santosh Thakur, Aged About 18 Years, R/o Bambay Awas Urla, Police Station Pulgaon, Tehsil & District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh.

---- Non-applicant

And

MCRC No. 4424 of 2017

- Ranjeet Verma S/o Late Mohan Verma, Aged About 24 Years, R/o Bombay Awas Urla, Police Station Pulgaon, Tehsil & District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh.

---- Non-applicant

For Applicant – Shri Y.C.Sharma, Advocate (in MCRC No.4261/2017)
Shri Avinash Chand Sahu, Advocate (in MCRC
No.4337/2017 and MCRC No.4424/2017)
For Non-applicant/State – Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

13-10-2017

1. Heard the matter finally.
2. As MCRC No.4261/2017, MCRC No.4337/2017 and MCRC

No.4424/2017 arise out of the same crime number and incident, all these three MCRC are being disposed of by this common order.

3. Learned counsel for the applicants would submit that the applicants held arrested on 15-03-2017 by P.S. Pulgaon, District Durg, Chhattisgarh for the offence under Section 341, 307, 34 of the IPC. After investigation police had filed the charge sheet, which is initially registered before the JMFC Durg, C.G. as Criminal Case No.4026/2017 and thereafter the matter is committed to the Court of Sessions and presently pending before the 8th Additional Sessions Judge Durg, C.G. as Sessions Trial No.139/2017. Remaining co-accused Mukesh Mishra had not preferred any MCRC for his release on bail. Mukesh Mishra is the main accused, the weapon knife was seized from Mukesh Mishra. From the present applicants only clothes were seized. There is one more juvenile accused against whom supplementary charge sheet has been filed before the Juvenile Justice Board Durg, C.G. Learned counsel for the applicants would further submit that the applicants will not commit any offence in future. Their matter are distinguishable from main accused Mukesh Mishra. As per the facts, injured Pawan Kumar Sahu and Tirath Kumar Sahu were returning back after celebrating Holi festival, Mukesh Mishra and the present applicants were sitting in the field, when the injured asked them to clear the road, Mukesh Mishra and the present applicants by sharing common intention restrained the complainant/injured and main accused Mukesh Mishra caused injuries to Pawan Kumar Sahu and Tirath Kumar Sahu as mentioned below:-

Sl.No.	Name of injured	injuries
01.	Pawan Kumar Sahu	incised wound (i) 1.2 x 0.5 cm. at the abdomen, (ii) 1.2 x ½ cm. at left hypochondrium, (iii) 1.2 x ½ cm. at waist, (iv) 1.2 x ½ cm. over umbilicus. There was active bleeding in all the injuries. The injuries were grievous in nature. The patient referred for treatment and further management.
02.	Tirath Kumar Sahu	Incised wound (i) 1.2 x ½ cm. over tracheal area,

		(ii) ½ x ½ x ½ cm. over left side of neck, with active bleeding and the injuries were grievous in nature.
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Pawan Kumar Sahu admitted in the hospital from 13 March 2017 till 22 March 2017 and Tirath Kumar Sahu admitted in the hospital for treatment from 13 March 2017 till 30 March 2017. All the applicants had not taken active part in the incident. No any weapon has been seized from the applicants. The incident happened during Holi celebration on a trivial matter and verbal duel between both the parties. Nothing in the charge sheet to demonstrate that both the injured ever developed any complication in the injuries received by them. Trial may take some time. The applicants may be enlarged on bail.

4. Per contra, learned counsel for the non-applicant/State would submit that against applicant Ravishankar Mishra following matter have been registered:-

Sl. No.	Crime No.	Section
01.	509/13	13 of the Public Gambling Act, 1867,
02.	313/14	392 of the IPC,
03.	314/14	341, 506, 323, 34 of the IPC.

Learned State counsel further submitted that against applicant Ranjeet Verma Crime No.133/14 under Section 294, 506, 323, 34 of the IPC has been registered. He would further submit that all the applicants are hardened criminal, they remained in the company of hardened criminals and by sharing common intention with Mukesh Mishra caused injuries aforementioned to the injured by sharp object, it goes to show the intention of the applicants to kill the injured. The injured received the injuries over the vital part of the body, i.e., neck and the stomach. Hence, looking to the entire facts, all the three MCRC may be dismissed.

5. Perused the entire material.
6. As all the applicants are in custody since about 7 months till date,

charge sheet has been filed, trial may take some time, though against applicants Ravishankar Mishra and Ranjeet Verma aforementioned matter have been registered prior to the incident, but as they are eitherailable one or triable by JMFC and also there is no fact that applicants Ravishankar Mishra and Ranjeet Verma had been convicted by any criminal Court, even apart the injuries were caused by main accused Mukesh Mishra and as per the allegation, all the three present applicants helped him for causing injuries, the background of the incident was not on the foundation of some previous enmity, it developed spontaneously when the injured while returning back saw the accused persons in the field and asked them to vacate the road and also to give them passage thereafter only the incident started after verbal duel, after 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, all the three MCRC are hereby allowed. The applicants are directed to be released on bail on each of them furnishing a personal bond in the sum of Rs.1,00,000/- (Rs. One Lac) with two solvent sureties of Rs.50,000/- each to the satisfaction of the trial Judge for their appearance before the said Court as and when directed till trial.

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; 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.

8. It is further directed that till conclusion of the trial the applicants shall

appear in person before the IO/SHO/In-charge, as the case may be, of Police Station Pulgaon, District Durg, C.G. in 1st and 3rd Monday of every month at 11.00 a.m. sharp. If the applicants failed to mark their appearance before the concerned police as directed, the police may inform the trial Court for the same and if the trial Court appreciates that the applicants were not present before the concerned police for no any sufficient or cogent reason, the bail granted to the applicants shall stand cancelled by the trial Court without further reference to the Bench.

9. Additional Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.

10. In addition, the applicants are directed not to communicate/contact in any of the manner with both the injured, their family members and the witnesses cited in the charge sheet or attempt to ask for any favour in the trial. If so, both the injured, their family members and the witnesses 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.

11. Certified copy today.

Sd/-
(Chandra Bhushan Bajpai)
Judge