

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4328 of 2017**

Nanhe Lal Kaushal S/o Devi Dayal Kaushal Aged About 48 Years
R/o Dabrapara Bhilai 3, Police Station Old Bhilai Tehsil And
District Durg, CG.

---- Applicant

State of Chhattisgarh through District Magistrate, Distt. Durg, CG.

---- Respondent**MCRC No. 4330 of 2017**

1. Chote Sahu S/o.Feruram Sahu Aged About 24 Years
2. Sunil Manikpuri S/o Mandas Manikpuri Aged About 18 Years
3. Raju Verma S/o Late Mohit Ram Verma Aged About 19 Years
4. Rajesh Dewangan S/o Rajkumar Dewangan Aged About 25 Years

all R/o Dabrapara South Tehsil Patan, District Durg, CG.

---- Applicants**Versus**

State of Chhattisgarh through District Magistrate, Distt. Durg, CG.

---- Respondent**MCRC No. 4346 of 2017**

Yogendra Thakur S/o Lavkush Thakur, Aged About 19 Years R/o -
Dabrapara South, Tehsil Patan District Durg CG.

---- Applicant**Versus**

State of Chhattisgarh through: District Magistrate, Distt. Durg CG

---- Respondent

For applicants	Mr. Avinash Chand Sahu, Adv.
For Respondent/State	Mr. Arvind Shukla and Mr. Sumit Jhanwar, PL.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****8-8-2017**

1. As MCRC No. 4328/2017, MCRC No. 4330/2017 and MCRC No. 4346/2017 arise out of same incident and crime number, they are being disposed of by this common order.

2. Heard finally.
3. The applicants have preferred this application for grant of bail as they are arrested 21-2-2017 in connection with Crime No. 57/2017 registered in PS Durg, Distt. Durg (CG) for offence punishable under Sections 294, 341, 147, 148, 149, 186, 353, 427, 435, 307, 34 of the Indian Penal Code 1860.
4. Learned counsel for the applicants submits that after investigation, police has filed charge sheet which is pending before the JMFC Bhilai-3, Distt. Durg as Criminal Case No. 273/2017. The matter is not yet committed. He further submits that police filed charge sheet against total 7 accused persons including all the six applicants and one co-accused Bhuvneshwar Patel and also mentioning that others are absconding, after their arrest supplementary charge sheet may be filed under Section 173 sub-section (8) of the Code of Criminal Procedure, 1973. He also submits that as per information, co-accused Bhuvneshwar Patel has not preferred any MCRC, also as per the list of pending MCRC shown in the computerized format, it is nowhere mentioned whether co-accused Bhuvneshwar Patel has preferred any MCRC and which is either pending or disposed of. He submits that the applicants are first offenders, they are in custody since 21-2-2017. As per allegation, on account of an accident, the applicants and other co-accused blocked the road and when police party reached to the spot and attempted to clear the road block, the applicants used obscene words and also pelted stones and attempted to set ablaze 3 motorcycles. In the entire

incident, police party was not given opportunity to do public duty and also 3 persons got injured, out of them, Hukum Sahu and Constable Chandrashekhar Chandel received simple injuries, Constable Dinesh Kumar Mandavi sustained injury over left side of head. He complained pain. Doctor opined for x-ray. In the x-ray report, no bony injury was reported but on a query, the doctor opined that if he was not treated in time, death might have caused, though Constable Dinesh Kumar Mandavi was not admitted. There is no panchnama prepared for the loss caused to three motorcycles, only said 3 motorcycles were mechanically inspected but in the said inspection report, value of the damage caused is not mentioned. They are first offender and out of the emotions generated at the spot after an accident they have committed alleged act without any premeditation. They will not commit any offence in future if granted bail.

5. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicants and submits that looking to the act committed by the applicants as they assaulted police party who was doing their official duty, pelted stones and also caused injury and damage as aforementioned, hence instant all the three MCRCs may be dismissed.
6. Perused the entire material.
7. As all the applicants are in custody since 5 months and 17 days till date, trial may take some time, they are first offender with no criminal incident and after considering the facts on the basis of which the present incident happened, also after considering their long detention and other facts regarding nature of injuries

and as any of the injured was not admitted in hospital as indoor patient, the damage caused to the motorcycles are not assessed during investigation, 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, Bhilai-3/trial Court as the case may be, for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.

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. The applicants are further directed to appear before the concerned SHO/IO/in-charge of the Police Station Durg, Distt. Durg (CG) 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.

9. 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 respondent/State for placing it with the case diary to be returned to the concerned police for compliance and information.
10. Copy of this order be placed in the file of MCRC No. 4330/2017 and MCRC No. 4346/2017.
11. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge