

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4391 of 2017**

Gautam Behra S/o Late Krishna Behra, Aged About 34 Years R/o Behra Colony, Near Durga Pandal, Pandir, Police Station Civil Lines, Raipur, CG.

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station Civil Lines, Raipur, District Raipur, Chhattisgarh.

---- Respondent

And**MCRC No. 4598 Of 2017**

1. Kapil Behra S/o Manik Behra Aged About 31 Years
2. Genda @ Prahlad Deep, S/o Prakash Deep, aged about 20 years
3. Shrikant Behra @ Golu, S/o Basto Behra, Aged About 26 Years
4. Dharamvir Behra @ Dharam S/o Manik Behra, Aged About 26 Years
5. Sachin Behra @ Chhotu, S/o Basto Behra, Aged About 21 Years
6. Rakesh Behra @ Anthony, S/o Late Subhash Behra, Aged About 28 Years

all R/o Behra Colony, Pandri, Police Station- Civil Lines, Raipur, CG.

---- Applicants

Vs

State of Chhattisgarh through Station House Officer, Police Station Civil Lines, District- Raipur, Chhattisgarh.

---- Respondent

And**MCRC No. 4861 Of 2017**

Nitesh Behra S/o Raju Behra Aged About 28 Years R/o Behra Colony, Pandri, Police Station Civil Lines, Raipur, Tahsil & District Raipur CG.

---- Applicant

Vs

State of Chhattisgarh through Station House Officer, Police Station Civil Lines, Raipur District Raipur Chhattisgarh.

---- Respondent

For applicant in MCRC No. 4391/2017- Mr. Vasim Miyan, Adv.
 For applicants in MCRC No. 4598/2017 & 4861/2017- Ms. Fouzia Mirza, Adv.
 For respondent/State – Mr. Ashok Swarnkar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

25-8-2017

1. As MCRCs No. 4391/2017, MCRC No. 4598/2017 and MCRC No. 4861/2017 arise out of same incident and crime number, they are being disposed of by this common order.
2. The applicants have preferred this application for grant of bail as all of them except applicant Kapil Behra are arrested on 23-5-2017 in connection with Crime No.345/2017 registered in PS Civil Lines, Raipur (CG) for offence punishable under Section 353, 186, 332, 147, 427 of the Indian Penal Code, 1860 and Section 3 and 4 of the Prevention of Damage to Public Property Act, 1984. Applicant Kapil Behta has been arrested on 22-5-2017.
3. Learned counsel for the applicants submit that after investigation, police has filed charge sheet which is pending before the CJM Raipur (CG) as Criminal Case No. 4290/2017. As per allegation, when the complainant and witnesses went to spot where a dispute was going on between two groups, the applicants obstructed the complainant and police party from maintaining law and order and also pelted stones and bricks which caused damage to the government property i.e. damage to window of the SUMO vehicle and also caused injury to complainant and others. As per MLC report, Chandradev Verma, sub-inspector received one contusion over chest, one lacerated wound over left thumb. In MLC report of Tamesh Sahu, sub-inspector, the doctor noticed swelling over left parietal region, advised for x-ray but no fracture was noticed. Both the injured were not hospitalized in the hospital. There is no opinion whether the injuries caused was fatal to life or grievous. Police during investigation had not prepared the damage panchnama showing damage caused in terms of money. They will not commit any offence in future if granted bail. They may

be granted bail as the trial may take time.

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

1. Genda @ Prahlad Deep

Crime No. 328/2016- under Section 294, 323, 506, IPC

2. Nitish Behra

Crime No. 301/2010- under Section 294, 323, 506, 34, IPC

3. Shrikant Behra @ Golu

i. Crime No. 102/2010 under Section 294, 506, IPC

ii. Crime No. 351/2011 under Section 452, 294, 323, 506, 427, IPC

4. Rakesh Behra @ Anthony

Crime No. 103/2013 under Section 294, 506, 427, IPC

Learned State counsel further submits that applicants Kapil Behra, Genda, Rakesh, Gautam Behra and 6 others were also involved in a matter registered by the police as Crime No. 344/2017 under Section 327, 323, 294, 147, 341 of the IPC which was committed on 21-5-2017 at 8.00 pm. Hence looking to the entire facts surfaced in the charge sheet and the criminal antecedent of the applicants, all the three MCRCs may be dismissed.

5. In reply, learned counsel for the applicants submit that applicants are not convicted by any criminal court in any matter as aforementioned and also the applicants Kapil Behra, Genda, Rakesh Behra and Gautam Behra are granted bail by the Court of Sessions in Crime No. 344/2017. He further submits that this matter was ultimately developed in the present matter in the light of dispute and assault of the two groups and thereafter police party reached to the spot.

6. Perused the entire matter.
5. As the applicants are in custody since more than 3 months, charge sheet has been filed, trial may take some time, no injured received grievous injury or remained hospitalized, also nothing is surfaced regarding value of damage caused and as per submission, only door glass of the SUMO was broken, the applicants are not previously convicted and as submitted they have been granted bail in a matter of the same day registered as Crime No. 344/2017, after consideration of entire facts, I am inclined to grant last opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRCs are 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/- for each applicant to the satisfaction of the CJM Raipur for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.
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: (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 Civil Lines, Raipur (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 holds 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.

7. 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.
8. Copy of this order be placed in the file of MCRC No. 4598/2017 and MCRC No. 4861/2017.
9. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge