

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4573 of 2017**

1. Vinod Kumar S/o Rupram Sahu, Aged About 26 Years
2. Yogendra Sahu S/o Rupram Sahu Aged About 19 Years

Both R/o Village Madhaipur, Post & Police Station Kharora, Raipur, CG.

--- Applicants

Versus

State Of Chhattisgarh through Police Station Kharora, District Raipur, CG.

--- Respondent

For applicants	Mr. Vikram Singh, Adv.
For Respondent/State	Mr. Neeraj Jain, GA.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

11-8-2017

1. The applicants have preferred this application for grant of bail as they are arrested on 25-4-2017 in connection with Crime No. 102/2017 registered in PS Kharora, Distt. Raipur (CG) for offence punishable under Section 294, 323, 506-B, 307, 34 of the Indian Penal Code, 1860.
2. Learned counsel for the applicants submits that after investigation, police has filed charge sheet which was pending before the JMFC Raipur as Criminal Case No. 3946/2017 and thereafter committed to the Court of Sessions where the matter is registered as ST No. 129/2017 and pending before the Sessions Judge, Raipur. Police filed charge sheet against total 3 accused persons including both the applicants. Co-accused Bhagvat Sahu who is the main accused who assaulted by sharp edged weapon to the injured has not preferred any MCRC. It is submitted on behalf of the applicants that they are the first offenders. They will not commit any offence in future. As per allegations, initially the injured and the complainant party

committed marpeet with the family members of accused persons of the present matter. They received injuries. They were examined by the doctor. They lodged report and with this on the same day, police had registered a matter under Section 294, 323, 506-II, 34 of the IPC against injured Tikeshwar and others. As per allegation, the applicants and co-accused Bhagwat Sahu gave threat to kill, uttered obscene words. Bhagwat Sahu was armed with sickle and the applicants were armed with wooden log and they assaulted Tikeshwar. As per MLC report, Tikeshwar Yadav received only one incised wound size 2 x 2 x 1 cm. The injured was examined and referred to Medical College Hospital, Raipur where he was treated, injuries were repaired. He was advised for admission in the hospital but he revised to be admitted. With this, the injured was never admitted as indoor patient in the hospital. There is no facts to demonstrate that the injury was grievous in nature or fatal for life. Durgesh Yadav also received a lacerated wound size 3 x 2 x 0.5 cm over right elbow caused by hard and blunt object. The applicants are in custody since long. They will not commit any offence in future. They may be enlarged on bail as the trial may take some time and also there was free fight between the parties.

3. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicantd and submits that earlier police had initiated one preventive proceeding against applicant No. 1 Vinod Kumar and also as injury was over neck which is vital part of the body and the applicants shares common intention along with main accused and caused injuries to Tikeshwar Yadav over neck which could be proved fatal to life

hence instant MCRC may be dismissed.

4. Perused the entire matter.
5. As the applicants are in custody since 3 months and 16 days, charge sheet has been filed, trial may take some time, injuries caused by co-accused Bhagwat Sahu who was having sharp edged weapon, as per allegation, applicants were carrying wooden log, during the incident family members of the accused were also assaulted by the injured and others, police also registered matter against the injured and others as surfaced in the order passed by the Sessions Court on 26-5-2017 in bail petition No. 1076/2017 as the applicants were never involved in any crime except registration of a preventive proceeding against applicant No. 1, injured was not admitted in the hospital, there is no fact regarding grievous injury or possibility of danger to life in the entire charge sheet, upon consideration of entire facts, 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 their furnishing a personal bond in the sum of Rs. 50,000/- with one solvent surety of the like sum to the satisfaction of the trial Court 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. 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 manner with the injured, his family members and the witnesses cited in the charge sheet and any other person concerned or attempt to ask for any favour in the trial directly or indirectly. If so, the injured, his 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 directly or indirectly gave pressure for illegal favour in the trial or otherwise, the bail granted to the applicants shall be cancelled without further reference to the bench and the concerned trial Court may take the applicants in custody including other measures as provided under the law.

8. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge