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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4527 of 2017

1. Smt. Rekha W/o Rakesh Aged About 25 Years R/o Village Mudhipar, Police Station Gatapara, Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.
2. Smt. Laxmi W/o Harish, Aged About 23 Years R/o Village Mudhipar, Police Station Gatapara, Tahsil Khairagarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Gatapar, District Rajnandgaon, Chhattisgarh.

---- Non-applicant

And

MCRC No. 4531 of 2017

1. Smt. Saroj Bai Netam W/o Hriday Netam Aged About 28 Years R/o Village Shiv Kokadi, Police Station Dhamdha, District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer Police Station Gatapar, District Rajnandgaon Chhattisgarh

---- Non-applicant

And

MCRC No. 4609 of 2017

1. Budharu Gond S/o Bhav Singh Gond Aged About 45 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.
2. Golu Gond S/o Budharu Gond Aged About 27 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.
3. Ashwani Gond S/o Thakur Ram Gond Aged About 36 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.
4. Rungu Gond S/o Thakur Ram Gond Aged About 29 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.
5. Harish Gond S/o Budharu Gond Aged About 25 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.
6. Kunti Bai W/o Budharu Gond Aged About 42 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.
7. Bihari Gond S/o Brij Gond Aged About 55 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.

8. Rakesh Gond S/o Budharu Gond Aged About 29 Years R/o Village Mudhipar, Police Station Gatapar, Tahsil Khairagarh, District Rajnandgaon Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Gatapar, District Rajnandgaon Chhattisgarh.

---- Non-applicant

For Applicants –	Shri C.K.Kesharwani, Advocate.
For Non-applicant/State –	Shri Neeraj Jain, Govt. Advocate (in MCRC No.4527/2017 and MCRC No.4531/2017). Shri Wasim Miyan, Panel Lawyer (in MCRC No.4609/2017)

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

10-08-2017

1. As MCRC No. 4527/2017, MCRC No. 4531/2017 and MCRC No. 4609/2017 arise out of the same crime number and incident, all these three MCRC are being disposed of by this common order.
2. Heard the matter finally.
3. Learned counsel for the applicants would submit that he had filed his power to represent the applicants also in MCRC No.4609/2017 by today itself. He is representing the other applicants as well.
4. It is submitted on behalf of the applicants that the applicants are arrested in connection with Crime No.22/2017 by P.S. Gatapar, District Rajnandgaon, C.G. for the offence under Section 294, 323, 506, 354, 342, 147 of the IPC and Section 4, 5 of the Tonhi Pratadna Nivaran Adhiniyam. The applicant Rekha and Laxmil are arrested on 20 June 2017 and other applicants are arrested on 14-06-2017. After investigation police had filed the charge sheet against total 12 accused which is pending before the JMFC Khairagarh, Distt. Rajnandgaon, C.G. as Criminal Case No.367/2017. Learned counsel for the applicants would further submit that all the applicants are first offender; they were never involved in any of crime and on account of premature death of infant female child on 13-06-2017 out of anger, suspicion and other facts all the

applicants involved in the incident. They will not repeat this action and will not commit any offence in future. They may be enlarged on bail.

5. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants and submitted that the manner the applicants committed crime, the instant MCRC may be dismissed. Learned counsel for the State/non-applicant would further submit that as the women accused disrobed the victim and also poured chilly powder in the genital which is a heinous offence, hence the instant MCRC may be dismissed.

6. Perused the entire material.

7. As applicant Rekha and Laxmi are in jail since 1 month and 20 days till date, other applicants are in custody since 1 month and 26 days, charge sheet has been filed, trial may take some time, the incident happened in the background of death of infant who was daughter of Bhagwati bai and thereafter on account of suspicion of local sorcery and other facts with assumption that the victim committed any sorcery and responsible for death of said infant the incident happened and also during some part of the incident the women applicants closed the door of deity room and thereafter in privacy disrobed the victim and poured chilly powder in the genitals, undisputedly their act was not committed in public, before other male applicants or witnesses, though the act is heinous, but looking to the background of the matter, the period of detention, all the applicants are first offender, they were never involved in any of the crime, trial may take some time, and as submitted they will not commit any offence in future, I am inclined to grant one last opportunity to the applicants so that they shall not involve themselves in any offence and shall live peacefully in society. Consequently, the instant 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.50,000/- with two solvent sureties of Rs.25,000/- each to the satisfaction of the Judicial Magistrate First Class Khairagarh, District

Rajnandgaon, C.G./trial Court, as the case may be, for their appearance before the said Court as and when directed till trial.

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; 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.

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

10. Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge