

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4960 of 2017**

1. Hem Singh Patel, S/o Late Karan Singh Patel, Aged About 40 Years, R/o Gram Bansghat, Medesara, Police Station Nandini Nagar, District Durg (Chhattisgarh).
2. Rohit Patel, S/o Late Karan Singh Patel, Aged About 52 Years, R/o Gram Bansghat, Medesara, Police Station Nandini Nagar, District Durg (Chhattisgarh).
3. Purshottam Patel @ Golu, S/o Rohit Patel, Aged About 24 Years, R/o Gram Bansghat, Medesara, Police Station Nandini Nagar, District Durg (Chhattisgarh).

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Sation Nandini Nagar, District Durg, (Chhattisgarh).

---- Respondent

For Applicant : Shri B.P. Singh, Advocate.
 For Non-applicant/State : Shri Wasim Miyan, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12.10.2017**

Heard the matter finally.

2. Learned counsel for the applicants would submit that the Applicant No.01 and Applicant No.03 had been arrested on 03/05/2017 and Applicant No.02 has been arrested on 09/05/2017 in connection with Crime No.115/2017 on by Police Station Nandini Nagar, Distt. Durg (C.G.) for the offence under Section 294, 323, 506 part two, 341, 307, 34 of the Indian Penal Code.

3. Learned counsel for the applicants submit that after

investigation, police had filed charge-sheet against all the applicants before the Judicial Magistrate First Class, Durg (C.G.) which was initially registered as Criminal Case No.4328/17, thereafter matter is recently committed to the Court of Sessions pending before the Fourth Additional Sessions Judge, Durg (C.G.) as Sessions Trial No.121/17. Learned counsel for the applicants would further submit that applicants and the injured are the near relatives, on account of a fact that the injured were taking tractor through the field belongs to applicants and there was crop standing in the said field, when the injured had not accepted the request, not to go through that field. In the heat of passion and other verbal talks, the present incident was committed. There is one more juvenile against whom the police had filed supplementary charge-sheet before the Juvenile Justice Board, Durg (C.G.). Learned counsel for the applicants would further submit that as per allegation, the applicants assaulted the injured by stick, axe and club and caused injuries to the injured.

01. Ramavtar

- (i) Head injury, lacerated wound 3x0.5 cm.
- (ii) Pain and Swelling over the right hand and right shoulder.

02. Pukhraj Patel

- (i) Pain and Swelling.
- (ii) Abrasion right shoulder.

03. Smt. Kumari Bai

- (i) Pain and Swelling over the left thigh.

04. Gend Singh

- (i) Pain and Swelling over the right wrist and thumb.
- (ii) Abrasion left index finger.

05. Dular Patel

(i) Head injury

(a) Incise wound 10x5x5 cm.

(b) Lacerated wound 3x0.3 cm.

(ii) Pain and Swelling over the left forearm.

The injured Dular Patel was admitted in the hospital for 3 days only, other injured were not admitted in the hospital as indoor patient. There is no fractured noticed to any of the injured, only the injuries of the Dular Patel opined as grievous in nature. There is no fact that after the discharge of the Dular Patel, any further complication developed for the injuries received. Learned counsel for the for the applicants would further submit that the applicants are the first offenders and to save their crops the incident happened. The applicants will not commit any offence in future, trial may take some time and they are in custody since long, they may be granted on bail till trial.

4. Per Contra, learned counsel for the respondent/State opposes the argument advanced on behalf of the applicants and would submit that on a very trivial issue instead of asking the complainant party not to enter into the field. The applicants assaulted by deadly weapons to the injured and caused injuries as aforementioned. Hence the instant MCRC may be dismissed and would further submit that against the Applicant No.01 Complaint No.148/2002 under Section 107, 116 (3) of the Cr.P.C. has been initiated and except this no criminal antecedent is reported against any applicants.

5. Perused the entire material.

6. As the applicants are in custody for more than 5 months till

date, except one preventive proceedings that too about 15 years ago. There is no criminal antecedent of the applicants regarding any penal offences. Only Dular Patel sustained the grievous injuries and he admitted in the hospital for 3 days, and remaining the other injured persons received simple injuries and they were not admitted in the hospital, trial may take some time and after consideration of the facts involved, I am inclined to grant one opportunity to the applicants so that they shall not commit any offence in future and shall remain peacefully in the society without committing any crime.

7. Consequently, the instant MCRC allowed.

8. The applicants are directed to be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties of Rs.25,000/- to each applicant to the satisfaction of Committal Court/Trial Court for their appearance before the said Court regularly as and when directed by the said Court.

9. 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 find 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 does 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.

10. In addition, the applicants are directed not to

communicate/contact in any manner with the injured, their 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 and the witnesses may report the said act to the trial Judge and if the trial Judge finds after hearing 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.

11. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge