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HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5056 of 2017**

1. Ram Kumar Dixena S/o Ambika Prasad Dixna Aged About 35 Years R/o Village Sirli Chouki Hardi Bazar District Korba, Chhattisgrh.
2. Ambika Prasad Dixena S/o Late Nohar Prasad Dixena Aged About 60 Years R/o Village Sirli Chouki Hardi Bazar District-Korba, Chhattisgarh.
3. Smt. Bhagwanti Bai Dixena W/o Ambika Prasad Dixena Aged About 55 Years R/o Village Sirli Chouki Hardi Bazar District-Korba, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through: The Station House Officer Police Chouki Hardi Bazar, , District- Korba, Chhattisgarh.

---- Respondent

For Applicant	: Shri SRJ Jaiswal, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

AND**Misc. Criminal Case No. 4809 of 2017**

1. Ramesh Kumar S/o Ambika Aged About 39 Years R/o Village Sirli, Police Chowki Hardi Bazar, Police Station Kusmunda, Civil And Revenue District Korba Chhattisgarh.
2. Rajendra Kumar S/o Ambika Aged About 27 Years R/o Village Sirli, Police Chowki Hardi Bazar, Police Station Kusmunda, Civil And Revenue District Korba Chhattisgarh.
3. Rameshwar S/o Ambika Aged About 25 Years R/o Village Sirli, Police Chowki Hardi Bazar, Police Station Kusmunda, Civil And Revenue District Korba Chhattisgarh.
4. Rajkumar S/o Ambika Aged About 32 Years R/o Village Sirli, Police Chowki Hardi Bazar, Police Station Kusmunda, Civil And Revenue District Korba Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Police Station Kusmunda, District - Korba Chhattisgarh.

---- Respondent

For Applicant	: Shri Dharmesh Srivastava, Advocate
For Respondent/State	: Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

30.8.2017

As both the above mentioned bail applications arise out of same incident and crime number, both are being heard and disposed of by a common order.

2. These are the applications filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants, who have been arrested in connection with Crime No.110/2017 registered in Out Post Hardi Baszar, Police Station Kusmunda, Distt. Korba (CG) for the offence punishable under Sections 147, 148, 149, 506, 294, 323, 324, 325 of the Indian Penal Code (subsequently Section 307 IPC has been added) and under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act 1989 (for short 'the Atrocities Act').

3. Learned counsel for the applicants submit that the applicants have been arrested on 10.7.2017, charge sheet is not yet filed, the applicants have been remanded by Special Judge under the Atrocities Act, Korba. As per the allegation, the applicants formed unlawful assembly, armed with deadly weapons, i.e. club, bat, axe etc. assaulted and caused injury to five persons including Jogendra Pal, Chetra Pal, Khem Singh and Gopal Prasad, who have received simple injuries and Sevak Ram sustained one fracture over the left tibia. He was hospitalized as indoor patient from 27.6.17 to 07.7.2017. The incident happened in the light of land dispute between the parties. Learned counsel for the applicants would submit that the trial may take some time

for its conclusion, as there is no further complication reported for injured Sevak Ram after his discharge on 07.7.2017 and also earlier in the year 2016 against Sevak Ram and one Manishankar Maravi, the police has registered the offence under Section 325/34 IPC on a complaint lodged by one of the applicant Ramesh Kumar and also on the same day the injured and other persons after forming unlawful assembly assaulted the applicants with deadly weapons caused injury, Applicant Rameshwar Kumar had lodged FIR at the Outpost HardiBazar, which was initially registered as 0/17 against 10 accused persons under Section 147, 148, 149, 294, 506-II, 323, IPC . Subsequently, the injured lodged report against the applicants and the police registered the matter against the applicants as aforementioned, they will not commit any offence in future, the trial may take sometime, hence, the applicants may be granted bail during trial.

4. Per contra, learned counsel for the State opposed the both the bail applications and would submit that the applicants armed with deadly weapons assaulted and caused injury to five persons including grievous injury to Sevakram on the basis of some land dispute between the parties. Looking to the entire facts, both the applications may be dismissed.

5. Perused the entire material.

6. The applicants are the first offenders, they are in custody for one month and twenty days, charge sheet has not been filed, the trial may take some time for its conclusion and also earlier one report was lodged by one of the applicants, the police registered

the matter against the present injured Sevakram and one Manishankar Maravi thereafter on the date of incident, the injured party also assaulted the applicants and caused injuries to them. FIR was also lodged by one of the applicant, Police has registered FIR and started investigating the matter. There is no facts reported that after the discharge of injured Sevak Ram any further complication has surfaced regarding his injury. The trial may take some time, upon consideration of the entire facts, I am inclined to grant one opportunity to the applicants so that they will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

8. It is directed that the applicants shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- each with two separate solvent sureties of Rs. 25,000/- to the satisfaction of trial Court/remand court for their appearance before the said Court as and when directed.

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 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 the above , the Court below may proceed further under the provisions of law, under intimation.

10. It is further directed that till the conclusion of the trial, present applicants shall mark their appearance before the Out Post Hardi Bazar, Police Station Kusmunda, Distt. Korba **on First and Third Monday of every month at 11.00 am.** It is further made clear that if the applicant without any cogent and proper reason does not appear before the Police of Police Station Outpost Hardi Bazar, Distt. Korba as directed, the concerned police may inform the trial Court for the act and if his non appearance found to be without any proper and cogent reason, the instant order granting bail to the applicant shall automatically be cancelled by the trial Court without further reference to the Bench, under intimation.

11. In addition, the applicants are directed not to communicate/contact in any of the manner with any of the injured, their family members and witnesses in the said matter or attempt to ask for any favour in the trial directly or indirectly. If so, the witnesses and the injured 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 or any attempt for any 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 shall take the applicant in custody including other measures as provided under the law.

12. Registrar (Judl.) is further directed to send a copy of the 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.

13. A copy of this order be kept in the record of MCrC No.4809/2017.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE