

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.5178 of 2017**

1. Tej Ram Yadav S/o Shri Ratan Yadav, Aged About 18 Years
R/o Village Bhakurra, P. S. Lailunga, District Raigarh Civil &
Revenue District Raigarh Chhattisgarh.
2. Ratan Yadav, S/o Shri Dhani Ram, Aged About 55 Years
(Wrongly Mentioned 20 Years) R/o Village Bhakurra, P. S.
Lailunga, District Raigarh Civil & Revenue District Raigarh
Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station Lailunga, District
Raigarh Chhattisgarh.

---- Respondent

For Applicant	: Shri Ashutosh Mishra, Advocate
For Respondent/State	: Shri Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****29.8.2017**

Heard the matter finally.

2. This is an application 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.66/2017 registered in Police Station Lailunga, Distt. Raigarh (CG) for the offence punishable under Sections 294, 506, 323, 341, 427, 34, 307 of the Indian Penal Code and under Sections 3(1)(r)(s), 3(2)(v) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act') which is pending before Additional Sessions Judge/Special Judge under the Atrocities Act, Raigarh as Special Sessions Trial No.26/2017.

3. Learned counsel for the applicants submits that the applicants have been arrested on 27.4.2017, trial is going on against total four accused persons including present applicants. The remaining co-accused Raviram Mahkul and Heeralal Mahkul have already been granted bail by this Court in MCRC No.4146/2017 vide order dated 27.7.2017. Case of the present applicants is similar to the co-accused who were on bail. As per the allegation, all the four accused persons wrongfully restrained the injured Bhop Singh, assaulted him by hands and fists and by club causing two injuries one lacerated wound with clotted blood size 3 x 1 cm over head, one abrasion with clotted blood at the forehead. The doctor referred him for CT scan and in the CT scan report, a fracture was noticed over left temporal parietal bone. The injured was admitted in the hospital from 13th to 17th March, 2017. It is also alleged that all the accused persons caused mischief by causing damage to the motorcycle worth Rs.1,000/- along with other act like threat to kill, use of obscene words. There is no further complication surfaced after discharge with the injured. They will not commit any offence in future, hence, both the applicants may be enlarged on bail.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicants and would submit that on 13th March at the eve of Holi festival, all the four co-accused persons restrained the injured and thereafter gave threat to kill, used obscene words and assaulted by club, hands and fists. With the said act, the injured received a fracture over left

temporal parietal bone and also he was assaulted knowing that he belongs to the scheduled tribe. Hence, instant bail application may be dismissed.

5. Perused the entire material.

6. As the both the applicants are in custody for four months and two days, charge sheet has been filed, the trial may take sometime for its conclusion, there is no criminal antecedent reported against the applicants, the injured was discharged from the hospital on 17.3.2017 thereafter no further complication is noticed in the charge sheet, upon consideration of the entire facts, and also considering that two other co-accused persons have already been granted bail by this Court and case of the present applicants is similar, I am inclined to give one opportunity to the applicants so that they shall not involve in any other offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is 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 one solvent surety of like sum amount to the satisfaction of the concerned trial Judge 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. In addition, the applicants are directed not to communicate/contact in any of the manner with the injured, and witnesses cited in the charge sheet 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 applicants in custody including other measures as provided under the law.

11. Registrar (Judl.) is further directed to send a copy of the order to the concerned trial Judge.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

