

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5311 of 2017**

Dhanraj Nishad S/o Maniram Nishad, Aged About 31 Years R/o Atariyakhurd, Police Station Kunda, Tahsil Pandariya, District-Kabirdham, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Kukdar, District Kabirdham, Chhattisgarh.

---- Respondent

MCRC No. 5630 of 2017

1. Vinod Kumar Sen S/o Shivnandan, Aged About 27 Years Caste Nai, R/o Village Golhapara, Out Post Chilphi, Police Station Lormi, Civil And Revenue District Mungeli Chhattisgarh.
2. Virendra Sahu, S/o Kunwara Sahu, Caste Nai, R/o Village Golhapara, Out Post Chilphi, Police Station Lormi, Civil And Revenue District Mungeli Chhattisgarh.
3. Thanuram Dhurve, S/o Devsingh Gond, Aged About 30 Years Caste Nai, R/o Village Golhapara, Out Post Chilphi, Police Station Lormi, Civil And Revenue District Mungeli Chhattisgarh.
4. Adalat Sahu, S/o Brijlal Teli, Aged About 25 Years R/o Village Dullapur, Police Station Pandariya, Tahsil Pandariya, Civil And Revenue District Kabirdham Chhattisgarh.
5. Kuleshwar Dhurve, S/o Kapil Dhurve, Aged About 26 Years R/o Village Dullapur, Police Station Pandariya, Tahsil Pandariya, Civil And Revenue District Kabirdham Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer Police Station Kukdur, District Kabirdham Chhattisgaon.

---- Respondent

For applicant in MCRC No. 5311/2017 Mr. Vaibhav A. Goverdhan, Adv.
 For applicants in MCRC No. 5630/2017 Mr. Dharmesh Shrivastava,
 Adv.
 For Respondents/State Mr. Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****11-9-2017**

1. As the MCRC No. 5311/2017 and MCRC No. 5630/2017 arise out of same incident and crime number, they are being disposed of by this common order.
2. The applicants have preferred these applications for grant of bail

as they are arrested in connection with Crime No. 26/2017 registered in Police Station - Kukdur, District Kabirdham (CG) for offence punishable under Section 294, 323, 506, 307, 147, 148, 149 of the Indian Penal Code, 1860. Applicant Dhanraj Nishad is arrested on 29-7-2017 and other applicants are arrested on 19-7-2017.

3. Learned counsel for the applicants submit that after investigation charge sheet has been filed which is presently pending before Judicial Magistrate First Class Pandariya, Distt. Kabirdham G.G. as Cr. Case No. 358/2017 for committal. These are their first bail applications before this Court. They are first offenders. They are in custody since long. Charge sheet has been filed. Trial may take some time. As per facts, all the applicants made unlawful assembly armed with deadly weapon i.e. club, axe, carpenter axe, log, and when complainant Premlal Jaiswal was putting material in godown near Panchayat building, the applicant denied and thereafter assaulted the complainant. The complainant received 3 injuries, (i) over scalp size 4 x 1 cm (ii) over chin size 3 x 1 cm (iii) over right hand which was noticed as fracture. The complainant was admitted in the hospital as indoor patient from 2-3-2017 to 9-3-2017. Thereafter no complication in the injuries was surfaced. The applicants will not commit any offence in future. They may be granted bail during trial.
4. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicants and submit that for no cause, all the applicants by performing unlawful assembly caused injuries to complainant by deadly weapons. Hence, both

the MCRCs may be dismissed.

5. Perused the matter.
6. As the applicants are in jail since 1 month and 13 days/ 1 month and 21 days till date respectively, charge sheet has been filed, trial may take some time, the injured discharge on 09.03.2017, and thereafter no any complainant surfaced in the entire charge-sheet, all the applicants are the first offenders never involved in any crime and as submitted they will not commit any crime in future and considering entire facts of the case, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRCs are 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 two solvent sureties each of Rs. 25,000/- for each applicant to the satisfaction of the committal court/trial Court as the case may be for their appearance before the said Court till disposal of the trial regularly as and when directed by the said Court.
7. 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. The applicants are

further directed to appear before the concerned SHO/IO/in-charge of the Police Station Kukdur, District Kabirdham on 1st and 3rd Monday of every month at 11 am positively till trial. If the applicants fail to do so, concerned police may intimate the trial Court and if the trial Court held that the applicants remain absent without any cogent and proper reason as directed, the bail granted to applicants shall stand cancelled by the trial Court without further reference to the bench under intimation. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

8. In addition, the applicants are directed not to communicate / contact in any manner with the injured and the witnesses cited in the charge sheet 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 that in any way the applicants directly or indirectly gave pressure for illegal favour in the trial or other wise, 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.
9. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge and also to provide a copy of the order to the non-applicant/State for placing it with the case diary to be returned to the concerned police for compliance and information.
10. C.C. as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge