

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4526 of 2017

- Pappu Kumar Bandhe S/o Jeevan Lal Bandhe Aged About 19 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Palari, Civil & Revenue District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Non-applicant

And

MCRC No. 5556 of 2017

1. Jeevan Bandhe S/o Makhan Lal Bandhe, Aged About 45 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.
2. Pawan Bandhe S/o Makhan Lal Bandhe, Aged About 29 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.
3. Khiladi @ Khileshwar S/o Makhan Lal Bandhe, Aged About 26 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.
4. Chhattar Lal, S/o Makhan Lal Bandhe, Aged About 38 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.
5. Bhupendra, S/o Jeevan Lal Bandhe Aged About 19 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.
6. Prakash @ Pappu S/o Tekaram Mandle, Aged About 26 Years R/o Village Nawagaon, Police Station Palari, Civil & Revenue District Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station Palari, Civil &

Revenue District Baloda Bazar Bhatapara, Chhattisgarh.

-----Non-Applicant

For Applicants MCRC No. 4526/2017 and MCRC No. 5556/2017

: Shri Hemant Gupta, Advocate.

For Respondent/State : Shri O.P. Sahu, Gov. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

11.10.2017

1. As the MCRC No. 4526/2017 and MCRC No. 5556/2017 arise out of the same crime number and incident, both are being disposed of by the common order.
2. Heard the matter finally.
3. These applications are filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicants. It is submitted that applicant Pappu Kumar Bandhe has been arrested on 08.06.2017, all other 6 applicants are arrested on 03.08.2017 in connection with crime No. 87/2017 registered in Police Station Pallari, District Baloda Bazar - Bhatapara (C.G.) for the offence punishable under Sections 147, 148, 149, 323, 307 of Indian Penal Code.
4. Learned counsel for the applicants would submit that after investigation police had filed charge-sheet before Chief Judicial Magistrate Baloda Bazar, C.G., which is subsequently committed to the Court of Sessions and presently matter is

pending before Second Additional Session Judge Baloda Bazar – Bhatapara, C.G., as Sessions Trial No. 64/2017. Applicant are in custody since long. They will not commit any offence, the injured and the applicants are near relative. On account of some dispute and enmity regarding one love marriage, the incident happened. As per allegation applicants assaulted the injured persons by spud (Khurpi) used to dig the field and soil by wooden stick and caused following injuries to the injured :-

- (i) Bhallu - Two abrasions, simple in nature, caused by hard & blunt object,
- (ii) Chhamman - One incised wound, one lacerated wound one incised wound left parietal region caused by hard and Sharp object situated over right parietal region by hard and blunt object
- (iii) Narendra - one incised wound by hard and sharp object,
- (iv) Tejram - one incised wound by hard and sharp object on left parietal region,
- (v) Raghuendra - one incised wound on occipital region by hard and sharp object,
- (vi) Mahendra- one incised wound with corresponding fracture over occipital region.

Though some injuries were noticed as grievous, but the doctor had not given opinion that any injury was fatal to life.

Learned counsel for the applicants would further submit that as there was a free fight between both the parties, the present applicants

Jeevan Bandhe also received one incised wound over parietal region shown as grievous in nature. He was hospitalized for six days, the applicant Chhattar had received one contusion over right forearm though there was no any bony injury. Applicant pawan Bandhe received one incised wound over the upper side skull bone grievous in nature and this applicant also hospitalized for six days. Applicant khiladi also sustained one incised wound over the left parietal region, the doctor termed as grievous in nature, he also hospitalized for six days. One family member of applicant Khiladi also received one incised wound over forearm, one lacerated wound over left temporal region. With this, 4 applicants and one family member had also sustained injuries by the opposite party. The applicants and the opposite party settled their dispute and they will maintained law and order, will not commit any offence in future, they may be granted bail during the trial.

5. Per contra, learned counsel for the respondent/State opposes the arguments advanced on behalf of the applicants and would submit that prior to the incident following matters have been registered against the applicants.

Sr. No.	Name	Crime/Complaint No.	Under Section
1.	Jeevan Bandhe	(i) Crime No. 246/05	34 (1) (a) of Chhattisgarh Excise Act 1915 (in short 'the Act, 1915')
		(ii) Crime No.13/13	34(1)(a) of the Act, 1915
		(iii) Complaint No.52/13	107, 116 (3) of Cr.P.C.
		(iv) Crime No.342/16	34(1)(a) of the Act, 1915
2.	Jeevan Bandhe, Pawan Bandhe, Khiladi, Chhattar	Complaint No. 195/17	107, 116(3) of the Cr.P.C.

	Lal, Prakash @ Pappu Kumar		
3.	Pawan Bandhe	Crime No.103/15	36(C) of the Act, 1915

Learned counsel further submit that looking to the act of the applicants and the criminal antecedents, both the MCRCs may be dismissed.

6. Perused the entire material.

7. As applicant Pappu Kumar Bandhe is in custody 4 month 3 days till date, and remaining applicants are in custody since for 2 month 8 days till date, charge-sheet has been filed, trial may take some time, the applicants and injured persons are near relatives, on account of some incident of a marriage on the basis of some love affairs, both the parties had dispute and on the date of incident, applicants also received many injuries of grievous nature, all the three applicants also remained in the hospital for six days. Though some excise matter have been registered against the applicants but they are bailable one and some preventive proceeding have been initiated which are automatically stopped after a period of six months, on consideration of entire, 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.

8. Consequently, the instant MCRC is hereby allowed.

9. It is directed that the applicants shall 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 Trial Judge for their appearance before the said Court as and when directed.

10. 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. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

11. In addition, the applicants is directed not to communicate/contact in any of the manner with the injured, their family members and witnesses cited in the charge-sheet or attempt to ask for any favour in the 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 applicant directly or indirectly gave pressure or any attempt for any illegal favour in the trial or otherwise, the bail granted to the applicant 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. Certified Copy as per rules.

Sd/-

(Chandra Bhushan Bajpai)

Judge

Pawan