

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5455 of 2017**

1. Munna Minj S/o Baijnath Minj, Aged About 35 Years
2. Sanjay Tirkey S/o Ramlal Tirkey, Aged About 30 Years

Both R/o Kudar Banswar (Dhanudand) Police Chowki Kedma, under Police Station Udaipur, District Surguja, Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh Through Police Chowki Kedma Under Police Station Udaipur, District Surguja, Chhattisgarh.

---- Respondent

For applicants	Dr. Shiv Kumar Shrivastava, Adv.
For Respondent/State	Mr. Sumit Jhanwar, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****7-9-2017**

1. The applicants have preferred this application for grant of bail as they are arrested on 31-5-2017 in connection with Crime No. 60/2017 registered in Police Chowki Kedma, PS Udaipur, Distt. Sarguja (CG) for offence punishable under Section 307, 34 of the Indian Penal Code, 1860.
2. Learned counsel for the applicants submit that after investigation charge sheet has been filed and the same is pending before the CJM Ambikapur as Cr. Case No. 1082/2017 for committal. They are first offenders. As per allegation, injured Soneshwar Tirki received one swelling over the neck. Doctor on being asked opined that the injury noticed over the neck could be fatal to life if not treated in time. The injured was admitted in hospital for treatment from 19-5-2017 upto 5-6-2017 i.e. total 18 days thereafter he was discharged. There is no any material that

thereafter he developed any complication in the injury. It is submitted that as the oxen of the injured and his family members many times used to enter into the field of the applicant and cause damage to his crop, there was dispute between both the parties. In a subsequent event when the applicant caught an ox of the injured family and when injured/victim reached to the spot, the applicant tied one end of the rope on the neck of the complainant another end of which was tied in the neck of ox and he drove the ox as a result of which the rope got tight on the neck of the applicant causing suffocation and swelling. It is further submitted that they are poor villagers, the incident happened in the heat of incident when the damage to crop was caused by the ox of the injured. They will not commit any offence in future if granted bail. They may be granted bail as the trial may take time.

3. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicants on the basis of the facts surfaced in the case diary and submits that the way the applicant tied the rope around the neck of the injured and thereafter drove the ox and the injury received injury on the neck and the opinion of the doctor that if the he was not treated in time, the injury could be fatal to life, all these facts dis-entitle the applicants to release them on bail. Hence the instant MCRC may be dismissed.
4. Perused the matter.
5. As the applicants are in custody since 3 months and 8 days till date, charge sheet has been filed, trial may take some time,

injured was discharged from the hospital on 5-6-2017 thereafter no complication in the injury is reported in the case diary, and as submitted they will not commit any crime in future and considering entire facts of the case and background of the incident, I am inclined to grant one opportunity to the applicants to live peacefully in the society without committing any crime. Consequently, instant MCRC is allowed. The applicants are directed to be released on bail on each of them 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 trial Court till disposal of the trial regularly as and when directed by the said Court.

6. 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.
7. 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.

8. Registrar (Judicial) is directed to send a copy of this order to the concerned trial Judge.
9. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge