

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5669 of 2017**

1. Mukesh Tandi @ Bhanja S/o Baje Tandi, Aged About 22 Years R/o Jaggannath Nagar, Near Shiv Mandir, P S Civil Lines, District Raipur, CG.
2. Dhiraj Mandhani, S/o Pawan Mandhani, Aged About 22 Years R/o Jaggannath Nagar, Kargil Gali, P. S. Civil Lines, District Raipur, CG.

---- Applicants**Versus**

State of Chhattisgarh through Police Station Civil Lines, District Raipur, CG.

---- Respondent

For applicants	Mr. Devarshi Thakur, Adv.
For Respondent/State	Mr. Vinod Tekam, Panel Lawyer.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****13-10-2017**

1. Perused the office note dated 27-9-2017. As per said office note except present applicants, no other co-accused have preferred any bail petition in the matter. This fact is recorded.
2. Heard the matter finally.
3. The applicants have preferred this application for grant of bail as they are arrested on 25-5-2017 in connection with Crime No. 341/2017 registered in PS Civil Lines, Distt. Raipur (CG) for offence punishable under Section 294, 307, 147, 148, 307 of the IPC and under Section 25 and 27 of the Arms Act.
4. Learned counsel for the applicants submit that after investigation charge sheet has been filed before the JMFC Raipur which was registered as Criminal Case No. 5532/2017. Thereafter the matter has been committed to the Court of Sessions, presently pending before the Addl. Sessions Judge, Raipur as Sessions Trial No. 178/2017. This is their first bail application before this Court. He further submits

that nothing has been seized from applicant No. 1 Mukesh Tandi @ Bhanja. During investigation police seized one stick from applicant No. 2 Dhiraj Mandhani. As per allegation both the applicants and other co-accused assaulted Mahaveer Behara, Nitish and Geeta by forming unlawful assembly armed with deadly weapon and caused following injuries :-

Mahavir Behara

- I. Contusion and swelling, 6 x 6 inch over right mid hand.
- ii. Lacerated wound, .5 x .2 cm over nose
- iii. Contusion and swelling $\frac{1}{4}$ x $\frac{1}{4}$ cm over upper lip
- iv. Lacerated wound, $\frac{1}{4}$ x .3 cm over back of knee.

Niteesh

Abrasion, 5 x .5 cm over left leg.

Geeta

Pain over the body.

No injury on the body of the injured persons is opined as grievous or fatal to life. The injured Mahaveer Behara remained in the hospital from 21st May 2017 to 26th May 2017. No any material is surfaced that the injured ever developed any complication over the injuries received. Both the applicants are aged about 22 years. They may be granted bail during trial as the trial may take some time.

5. Per contra, learned State counsel opposes the arguments advanced on behalf of the applicants and submits that looking to the facts surfaced, the applicants and 7 more accused persons assaulted Mahaveer Behara and other two injured persons by deadly weapon and caused injuries hence looking to the entire act, instant MCRC may be dismissed. He also supplemented that against applicant No. 1 following matters have been also registered prior to the incident :-

Sr. No.	Crime No.	Offence under Section
1.	421/2017	294, 323, 506, 34, IPC
2.	64/2017	294, 323, 506, IPC

6. Perused the matter.
7. As the applicants are in custody since 4 months and 19 days till date, charge sheet has been filed, trial may take some time, though against the applicant No. 1 aforementioned two matters have been registered but prima facie it appears that the matter was bailable one. There is no material to demonstrate as to whether applicant No. 1 has ever been convicted by any criminal court. There is no injury reported as grievous or fatal to life received by injured Mahavir Behara or other two injured. As submitted, they will not commit any offence in future and considering the entire fact, 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. 30,000/- with one solvent surety of the like sum for each applicant to the satisfaction of the trial Judge for their appearance before the said trial Court till disposal of the trial regularly as and when directed by the said Court.
8. 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 Civil Lines, Distt. Raipur (CG) on every 1st and 3rd Monday 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.

9. Addl. 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. CC as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge